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**PROCEEDINGS OF THE
UNITED STATES SENATE**

IN THE

**IMPEACHMENT TRIAL OF
PRESIDENT WILLIAM JEFFERSON
CLINTON**

VOLUME I: PRELIMINARY PROCEEDINGS



VOLUME I OF IV

FEBRUARY 12, 1999.—Ordered to be printed

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OFFICE OF THE SECRETARY OF THE SENATE

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UNANIMOUS CONSENT AGREEMENT

In the Senate of the United States

February 12, 1999

Mr. LOTT. I ask unanimous consent that the Secretary be authorized to include these statements [of Senators explaining their votes], along with the full record of the Senate's proceedings, the filings by the parties, and the supplemental materials admitted into evidence by the Senate, in a Senate document printed under the supervision of the Secretary of the Senate, that will complete the documentation of the Senate's handling of these impeachment proceedings.

The CHIEF JUSTICE. Without objection, it is so ordered.

**To the memory of Raymond Scott Bates,
Legislative Clerk of the Senate,**

who, until his untimely and tragic accidental death on February 5, 1999, in the midst of these proceedings, brought to the conduct of this trial the constant dedication, skill, and professionalism that characterized his Senate career. Scott represented the best of the Senate staff who work tirelessly to support the institution and its members.

FOREWORD

This document contains the full record of the United States Senate proceedings in the impeachment trial of President William Jefferson Clinton. Its purpose is to preserve for the future use of the Senate, the American people, and historians the formal record of the only Presidential impeachment trial of the 20th century. Together with the 24-volume Senate Document 106–3, which contains all publicly available materials submitted to or produced by the Judiciary Committee of the House of Representatives, these four volumes represent the entire official record of the impeachment actions against President Clinton.¹

The present four volumes include the Senate proceedings in open session; filings by the parties; supplemental materials received in evidence that were not part of the House record, such as affidavits and depositions; floor statements of Senators in open session expressing their views regarding the proceedings; and statements delivered in closed deliberations that individual Senators elected to make public.

The document is divided into four sections—

Volume I: Preliminary Proceedings

Volume II: Floor Trial Proceedings

Volume III: Depositions and Affidavits

Volume IV: Statements of Senators Regarding the Impeachment Trial of President William Jefferson Clinton

VOLUME I: PRELIMINARY PROCEEDINGS

This volume contains the portion of the Senate proceedings that occurred before the actual trial commenced. On December 19, 1998, the House of Representatives adopted two articles of impeachment against President Clinton (House Resolution 611, 105th Congress) and a subsequent resolution appointing managers on the part of the House (House Resolution 614, 105th Congress).

Because the Senate of the 105th Congress had already completed its business and adjourned sine die, the House managers, in the late afternoon of December 19, 1998, delivered the articles of impeachment to the Secretary of the Senate. The Senate of the 106th Congress convened and organized on January 6, 1999, and the House notified the Senate that it had reappointed the managers (House Resolution 10, 106th Congress). On January 7, 1999, the House managers exhibited the articles of impeachment to the Senate and the Chief Justice of the United States, as presiding officer

¹The Senate, by a unanimous-consent agreement of February 12, 1999, authorized the Secretary of the Senate to oversee the printing of the Senate proceedings in order to complete the documentation of the impeachment trial.

during the impeachment trial, took the prescribed oath, as did all Senators.

On January 8, 1999, the Senate unanimously directed that the summons be issued to President Clinton and that his answer to the articles be filed, together with the response of the House of Representatives (Senate Resolution 16, 106th Congress). This resolution admitted into evidence the materials submitted by the House Judiciary Committee and authorized their publication. It also allowed the parties to file preliminary motions (none was filed), established a schedule for the filing of trial briefs by the parties, and established further procedures for the conduct of the trial. Although all these documents were previously printed in Senate Document 106-2—as well as the text of the provisions of the United States Constitution applicable to impeachment and the Rules of Procedure and Practice of the Senate When Sitting in Impeachment Trials—they are reprinted here for ease of reference.

VOLUME II: FLOOR TRIAL PROCEEDINGS

This volume reproduces the full record of the Senate floor proceedings in the impeachment trial as provided under Senate Resolution 16. The resolution first permitted the parties an extended period to make their presentations. The managers presented their case on behalf of the House of Representatives on January 14, 15, and 16, 1999. Counsel for the President presented their case on January 19 and 20, 1999. The Senate then devoted January 22 and 23, 1999, to posing questions to the House managers and counsel.

Senate Resolution 16 also provided that, at the end of the question-and-answer period, the Senate would consider separately a motion to dismiss and a motion to subpoena witnesses and to present additional evidence not in the record. On January 25, 1999, the Senate heard argument on the motion to dismiss and, on January 26, 1999, considered the motion by the House managers to call witnesses and admit additional evidence. The Senate voted to deny the motion to dismiss and to grant the motion to subpoena witnesses.

On January 28, 1999, the Senate established procedures for the taking of depositions (Senate Resolution 30), and three witnesses were deposed on February 1, 2, and 3, 1999. On February 4, 1999, the Senate heard argument and voted on motions to admit the deposition testimony into evidence, to call witnesses to testify on the Senate floor, and to proceed directly to closing arguments. The portions of the deposition transcripts admitted into evidence are reproduced in this volume, while the full transcripts of the three depositions appear in Volume III. Both parties presented evidence to the Senate on February 6, 1999.

On February 8, 1999, the parties presented final arguments to the Senate. The Senate then considered proposals by various Senators to suspend the Senate impeachment rules to permit deliberation in open session, but all deliberations on motions and on the articles of impeachment occurred in closed session. (The proceedings in closed session are not published here, but statements that Senators elected to make public are printed in Volume IV.) Volume II concludes with the record of the February 12, 1999, vote

and judgment of the Senate to acquit President Clinton on both articles of impeachment.

VOLUME III: DEPOSITIONS AND AFFIDAVITS

This volume reproduces the complete transcripts of the depositions taken by the Senate of witnesses Monica S. Lewinsky, Vernon E. Jordan, Jr., and Sidney Blumenthal. It also contains the affidavits of Christopher Hitchens, Carol Blue, and R. Scott Armstrong, which were admitted into evidence by a unanimous-consent agreement of February 12, 1999.

VOLUME IV: STATEMENTS OF SENATORS REGARDING THE
IMPEACHMENT TRIAL OF PRESIDENT WILLIAM JEFFERSON CLINTON

By unanimous consent, the Senate agreed to provide each Senator an opportunity to place in the Congressional Record a statement describing his or her own views on the impeachment. The statement could, if a Senator so chose, be a statement he or she had delivered during closed deliberations. Since not all Senators chose to publish their remarks, the fact that a statement of a particular Senator does not appear in Volume IV does not mean that the Senator did not address the Senate during its closed deliberations.

The publication of these four volumes, supplemented with Senate Document 106-3, contributes to a fuller understanding of the way in which the Senate conducted these important and historic proceedings.

A handwritten signature in cursive script, reading "Gary Sisco".

GARY SISCO,
Secretary of the Senate.

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¹ On December 19, 1998, the House of Representatives agreed to H. Res. 611, 105th Cong., the Articles of Impeachment, [144 Cong. Rec. H12040–42 (daily ed. Dec. 19, 1998)] and H. Res.

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614, 105th Cong., which provided for the appointment of managers and procedures relating to impeachment proceedings [id. at H12042–43].

²The House of Representatives agreed to H. Res. 10, 106th Cong., on January 6, 1999 [145 Cong. Rec. H216–17 (daily ed. Jan. 6, 1999)].

³The Appendix to Trial Memorandum of President William Jefferson Clinton, consisting of exhibits, was filed separately on January 20, 1999, but is inserted here for ease of reference.

⁴For ease of reference, the documents contained in S. Doc. 106–2, i.e., the pertinent constitutional provisions, the Senate Impeachment Rules, the Articles of Impeachment, the Answer of President Clinton, and the Replication of the House of Representatives, are reprinted in this publication. Separately, the Senate admitted into evidence and authorized the printing, pursuant to S. Res. 16, 106th Cong., of the publicly available materials submitted to or produced by the House Judiciary Committee, including transcripts of public hearings or mark-ups and any materials printed by the House of Representatives or the House Judiciary Committee pursuant to H. Res. 525 and H. Res. 581, 105th Cong. (1998). That evidentiary record, S. Doc. 106–3 (1999) [24 vols.], is not reproduced here.

⁵The unanimous-consent agreement of February 9, 1999, allowed each Senator to place in the Congressional Record his or her statement delivered during closed deliberations. Not all Senators chose to publish their remarks; the fact that a statement of a particular Senator does not appear here does not mean that Senator did not address the Senate during the closed sessions. Additionally, the unanimous-consent agreement of February 12, 1999, allowed Senators to have statements and opinions explaining their votes printed in the Congressional Record.

⁶Sen. Specter submitted an additional statement on February 12, see p. 2715 below.

⁷Sen. Feingold submitted an additional statement on February 22, see p. 3042 below.

⁸Sen. Bond submitted an additional statement on February 23, see p. 3058 below.

⁹Sen. Inhofe submitted an additional statement on February 12, see p. 2987 below.

¹⁰Sen. Leahy submitted additional statements on February 12 and February 23, see pp. 2996, 3090, 3102 below.

¹¹Sen. Dodd submitted additional statements on February 23, see pp. 3099 and 3100 below.

¹²Sen. Reed submitted an additional statement on February 24, see p. 3103 below.

¹³Sen. Sessions submitted an additional statement on February 23, see p. 3094 below.

**RULES OF PROCEDURE AND PRACTICE IN THE SENATE WHEN SITTING
ON IMPEACHMENT TRIALS**

I. Whensoever the Senate shall receive notice from the House of Representatives that managers are appointed on their part to conduct an impeachment against any person and are directed to carry articles of impeachment to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment, agreeably to such notice.

II. When the managers of an impeachment shall be introduced at the bar of the Senate and shall signify that they are ready to exhibit articles of impeachment against any person, the Presiding Officer of the Senate shall direct the Sergeant at Arms to make proclamation, who shall, after making proclamation, repeat the following words, viz: "All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against _____"; after which the articles shall be exhibited, and then the Presiding Officer of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

III. Upon such articles being presented to the Senate, the Senate shall, at 1 o'clock after noon of the day (Sunday excepted) following such presentation, or sooner if ordered by the Senate, proceed to the consideration of such articles and shall continue in session from day to day (Sundays excepted) after the trial shall commence (unless otherwise ordered by the Senate) until final judgment shall be rendered, and so much longer as may, in its judgment, be needful. Before proceeding to

Article III, Section 2, Clause 3

The Trial of all Crimes, except in Cases of
Impeachment, shall be by Jury; . . .

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the consideration of the articles of impeachment, the Presiding Officer shall administer the oath hereinafter provided to the Members of the Senate then present and to the other Members of the Senate as they shall appear, whose duty it shall be to take the same.

IV. When the President of the United States or the Vice President of the United States, upon whom the powers and duties of the Office of President shall have devolved, shall be impeached, the Chief Justice of the United States shall preside; and in a case requiring the said Chief Justice to preside notice shall be given to him by the Presiding Officer of the Senate of the time and place fixed for the consideration of the articles of impeachment, as aforesaid, with a request to attend; and the said Chief Justice shall be administered the oath by the Presiding Officer of the Senate and shall preside over the Senate during the consideration of said articles and upon the trial of the person impeached therein.

V. The Presiding Officer shall have power to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules or by the Senate, and to make and enforce such other regulations and orders in the premises as the Senate may authorize or provide.

VI. The Senate shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts, and judgments, to preserve order, and to punish in a summary way contempts of, and disobedience to, its authority, orders, mandates, writs, precepts, or judgments, and to make all lawful orders, rules, and regulations which it may deem essential or conducive to the ends of justice. And the Sergeant at Arms, under the direction of the Senate, may employ such aid and assistance as may be necessary to enforce, execute, and carry into effect the lawful orders, mandates, writs, and precepts of the Senate.

VII. The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the Presiding Officer on the trial shall direct all the forms of proceedings while the Senate is sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for. And the Presiding Officer on the trial may rule on all questions of evidence including, but not limited to, questions of relevancy, materiality, and redundancy of evidence and incidental questions, which ruling shall stand as the judgment of the Senate, unless some Member of the Senate shall ask that a formal vote be taken thereon, in which case it shall be submitted to the Senate for decision without debate; or he may at his option, in the first instance, submit any such question to a vote of the Members of the Senate. Upon all such questions the vote shall be taken in accordance with the Standing Rules of the Senate.

VIII. Upon the presentation of articles of impeachment and the organization of the Senate as hereinbefore provided, a writ of summons shall issue to the person impeached, reciting said articles, and notifying him to appear before the Senate upon a day and at a place to be fixed by the Senate and named in such writ, and file his answer to said articles of impeachment, and to stand to and abide the orders and judgments of the Senate thereon; which writ shall be served by such officer or person as shall be named in the precept thereof, such number of days prior to the day fixed for such appearances as shall be named in such precept, either by the delivery of an attested copy thereof to the person impeached, or if that cannot conveniently be done, by leaving such copy at the last known place of abode of such person, or at his usual place of business in some conspicuous place therein; or if such service shall be, in the judgment of the Senate, impracticable, notice to the per-

son impeached to appear shall be given in such other manner, by publication or otherwise, as shall be deemed just; and if the writ aforesaid shall fail of service in the manner aforesaid, the proceedings shall not thereby abate, but further service may be made in such manner as the Senate shall direct. If the person impeached, after service, shall fail to appear, either in person or by attorney, on the day so fixed thereof as aforesaid, or, appearing, shall fail to file his answer to such articles of impeachment, the trial shall proceed, nevertheless, as upon a plea of not guilty. If a plea of guilty shall be entered, judgment may be entered thereon without further proceedings.

IX. At 12:30 o'clock afternoon of the day appointed for the return of the summons against the person impeached, the legislative and executive business of the Senate shall be suspended, and the Secretary of the Senate shall administer an oath to the returning officer in the form following, viz: "I, _____, do solemnly swear that the return made by me upon the process issued on the _____ day of _____, by the Senate of the United States, against _____ is truly made, and that I have performed such service as therein described: So help me God." Which oath shall be entered at large on the records.

X. The person impeached shall then be called to appear and answer the articles of impeachment against him. If he appears, or any person for him, the appearance shall be recorded, stating particularly if by himself, or by agent or attorney, naming the person appearing and the capacity in which he appears. If he does not appear, either personally or by agent or attorney, the same shall be recorded.

XI. That in the trial of any impeachment the Presiding Officer of the Senate, if the Senate so orders, shall appoint a committee of Senators to receive evidence and

take testimony at such times and places as the committee may determine, and for such purpose the committee so appointed and the chairman thereof, to be elected by the committee, shall (unless otherwise ordered by the Senate) exercise all the powers and functions conferred upon the Senate and the Presiding Officer of the Senate, respectively, under the rules of procedure and practice in the Senate when sitting on impeachment trials.

Unless otherwise ordered by the Senate, the rules of procedure and practice in the Senate when sitting on impeachment trials shall govern the procedure and practice of the committee so appointed. The committee so appointed shall report to the Senate in writing a certified copy of the transcript of the proceedings and testimony had and given before such committee, and such report shall be received by the Senate and the evidence so received and the testimony so taken shall be considered to all intents and purposes, subject to the right of the Senate to determine competency, relevancy, and materiality, as having been received and taken before the Senate, but nothing herein shall prevent the Senate from sending for any witness and hearing his testimony in open Senate, or by order of the Senate having the entire trial in open Senate.

XII. At 12:30 o'clock afternoon, or at such other hour as the Senate may order, of the day appointed for the trial of an impeachment, the legislative and executive business of the Senate shall be suspended, and the Secretary shall give notice to the House of Representatives that the Senate is ready to proceed upon the impeachment of _____, in the Senate Chamber.

XIII. The hour of the day at which the Senate shall sit upon the trial of an impeachment shall be (unless otherwise ordered) 12 o'clock m.; and when the hour shall arrive, the Presiding Officer upon such trial shall cause proclamation to be made, and the business of the

trial shall proceed. The adjournment of the Senate sitting in said trial shall not operate as an adjournment of the Senate; but on such adjournment the Senate shall resume the consideration of its legislative and executive business.

XIV. The Secretary of the Senate shall record the proceedings in cases of impeachment as in the case of legislative proceedings, and the same shall be reported in the same manner as the legislative proceedings of the Senate.

XV. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

XVI. All motions, objections, requests, or applications whether relating to the procedure of the Senate or relating immediately to the trial (including questions with respect to admission of evidence or other questions arising during the trial) made by the parties or their counsel shall be addressed to the Presiding Officer only, and if he, or any Senator, shall require it, they shall be committed to writing, and read at the Secretary's table.

XVII. Witnesses shall be examined by one person on behalf of the party producing them, and then cross-examined by one person on the other side.

XVIII. If a Senator is called as a witness, he shall be sworn, and give his testimony standing in his place.

XIX. If a Senator wishes a question to be put to a witness, or to a manager, or to counsel of the person impeached, or to offer a motion or order (except a motion to adjourn), it shall be reduced to writing, and put by the Presiding Officer. The parties or their counsel may interpose objections to witnesses answering questions propounded at the request of any Senator and the merits of any such objection may be argued by the parties or their counsel. Ruling on any such objection shall be made as provided in Rule VII. It shall not be in order for any Senator to engage in colloquy.

XX. At all times while the Senate is sitting upon the trial of an impeachment the doors of the Senate shall be kept open, unless the Senate shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record.

XXI. All preliminary or interlocutory questions, and all motions, shall be argued for not exceeding one hour (unless the Senate otherwise orders) on each side.

XXII. The case, on each side, shall be opened by one person. The final argument on the merits may be made by two persons on each side (unless otherwise ordered by the Senate upon application for that purpose), and the argument shall be opened and closed on the part of the House of Representatives.

XXIII. An article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial. Once voting has commenced on an article of impeachment, voting shall be continued until voting has been completed on all articles of impeachment unless the Senate adjourns for a period not to exceed one day or adjourns sine die. On the final question whether the impeachment is sustained, the yeas and nays shall be taken on each article of impeachment separately; and if the impeachment shall not, upon any of the articles presented, be sustained by the votes of two-thirds of the Members present, a judgment of acquittal shall be entered; but if the person impeached shall be convicted upon any such article by the votes of two-thirds of the Members present, the Senate may proceed to the consideration of such other matters as may be determined to be appropriate prior to pronouncing judgment. Upon pronouncing judgment, a certified copy of such judgment shall be deposited in the office of the Secretary of

State. A motion to reconsider the vote by which any article of impeachment is sustained or rejected shall not be in order.

Form of putting the question on each article of impeachment

The Presiding Officer shall first state the question; thereafter each Senator, as his name is called, shall rise in his place and answer: guilty or not guilty.

XXIV. All the orders and decisions may be acted upon without objection, or, if objection is heard, the orders and decisions shall be voted on without debate by yeas and nays, which shall be entered on the record, subject, however, to the operation of Rule VII, except when the doors shall be closed for deliberation, and in that case no Member shall speak more than once on one question, and for not more than ten minutes on an interlocutory question, and for not more than fifteen minutes on the final question, unless by consent of the Senate, to be had without debate; but a motion to adjourn may be decided without the yeas and nays, unless they be demanded by one-fifth of the Members present. The fifteen minutes herein allowed shall be for the whole deliberation on the final question, and not on the final question on each article of impeachment.

XXV. Witnesses shall be sworn in the following form, viz: "You, _____, do swear (or affirm, as the case may be) that the evidence you shall give in the case now pending between the United States and _____, shall be the truth, the whole truth, and nothing but the truth: So help you God." Which oath shall be administered by the Secretary, or any other duly authorized person.

Form of a subpoena to be issued on the application of the managers of the impeachment, or of the party impeached, or of his counsel

To _____, greeting:

You and each of you are hereby commanded to appear before the Senate of the United States, on the _____ day of _____, at the Senate Chamber in the city of Washington, then and there to testify your knowledge in the cause which is before the Senate in which the House of Representatives have impeached _____.

Fail not.

Witness _____, and Presiding Officer of the Senate, at the city of Washington, this _____ day of _____, in the year of our Lord _____, and of the Independence of the United States the _____.

_____,
Presiding Officer of the Senate.

Form of direction for the service of said subpoena

The Senate of the United States to _____, greeting:

You are hereby commanded to serve and return the within subpoena according to law.

Dated at Washington, this _____ day of _____, in the year of our Lord _____, and of the Independence of the United States the _____.

_____,
Secretary of the Senate.

Form of oath to be administered to the Members of the Senate and the Presiding Officer sitting in the trial of impeachments

"I solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the impeachment of _____, now pending, I will do impartial

justice according to the Constitution and laws: So help me God."

Form of summons to be issued and served upon the person impeached

THE UNITED STATES OF AMERICA, ss:

The Senate of the United States to _____, greeting:

Whereas the House of Representatives of the United States of America did, on the ____ day of ____, exhibit to the Senate articles of impeachment against you, the said _____, in the words following:

[Here insert the articles]

And demand that you, the said _____, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice.

You, the said _____, are therefore hereby summoned to be and appear before the Senate of the United States of America at their Chamber in the City of Washington, on the ____ day of ____, at ____ o'clock ____, then and there to answer to the said articles of impeachment, and then and there to abide by, obey, and perform such orders, directions, and judgments as the Senate of the United States shall make in the premises according to the Constitution and laws of the United States.

Hereof you are not to fail.

Witness _____, and Presiding Officer of the said Senate, at the city of Washington, this ____ day of ____, in the year of our Lord ____, and of the Independence of the United States the _____.

_____,
Presiding Officer of the Senate.

Form of precept to be indorsed on said writ of summons

THE UNITED STATES OF AMERICA, ss:

The Senate of the United States to _____, greeting:

You are hereby commanded to deliver to and leave with _____, if conveniently to be found, or if not, to leave at his usual place of abode, or at his usual place of business in some conspicuous place, a true and attested copy of the within writ of summons, together with a like copy of this precept; and in whichsoever way you perform the service, let it be done at least _____ days before the appearance day mentioned in the said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon indorsed, on or before the appearance day mentioned in the said writ of summons.

Witness _____, and Presiding Officer of the Senate, at the city of Washington, this ____ day of ____ in the year of our Lord ____, and of the Independence of the United States the ____.

_____,

Presiding Officer of the Senate.

All process shall be served by the Sergeant at Arms of the Senate, unless otherwise ordered by the Senate.

XXVI. If the Senate shall at any time fail to sit for the consideration of articles of impeachment on the day or hour fixed therefor, the Senate may, by an order to be adopted without debate, fix a day and hour for resuming such consideration.

THE PUBLIC'S ACCESS TO THE IMPEACHMENT PROCEEDINGS

[From the Congressional Record, January 6, 1999]

Mr. LOTT. Mr. President, during the impeachment trial of President Andrew Johnson, the Senate limited access to the Senate wing of the Capitol, the Senate floor, and the Senate galleries to those with official business and those with tickets to the proceedings.

Over the Christmas holidays, staff of the Office of the Secretary of the Senate, including the Parliamentarian, legislative clerk and others, and staff of the Office of the Sergeant at Arms and others, have reviewed the historical precedents but also considered what we could do to facilitate the public's access to the proceedings while taking into account contemporary security requirements and the flow of business here in the Chamber. Staff have recommended some restrictions to the access of the Senate wing, floor, and galleries coupled with a ticketing system that will make as many seats in the gallery available to the public and others as is possible for us to do.

Accordingly, in a few minutes I will ask unanimous consent be given to a set of policies that reflect the staff recommendations which will confine access to the Senate floor and galleries and to the second and third floors of the Senate wing of the Capitol during the consideration of the articles of impeachment and at all times the Chief Justice is presiding.

I thank the distinguished Democratic leader for his efforts and his cooperation in this matter. We have been very careful to make sure we reviewed all the precedents, all the rules; that he has had a chance to check off on these rules, as I have. And I wish to thank all staff who researched the precedent and evaluated current conditions to develop these recommendations. Before seeking unanimous consent, however, I will now yield to the assistant Democratic leader.

The PRESIDING OFFICER (Mr. HAGEL). The assistant Democratic leader is recognized.

Mr. REID. Mr. President, I appreciate the statement of the majority leader. He has been very gracious in reaching out to this side of the aisle on the standards that are going to be initiated and actually used during the impeachment proceedings. I think that the Secretary of the Senate and the Sergeant at Arms did an excellent job today of explaining the procedures to the Democratic caucus. I think there was general agreement that they were favorable and would certainly make the process here one of which we could all be proud.

UNANIMOUS-CONSENT AGREEMENT—SENATE ACCESS

Mr. LOTT. Mr. President, I ask unanimous consent that access to the Senate wing, the Senate floor, and the Senate Chamber galleries during all proceedings involving the exhibition or consideration of the articles of impeachment of the President of the United States, and all times that the Senate is sitting for trial with the Chief Justice of the United States presiding, be in accordance with the allocations and provisions on the documents I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The documents follow:

ENFORCEMENT OF SENATE RULE XXIII—SENATE FLOOR ACCESS

Rule XXIII.—Persons with privileges under Senate Rule XXIII shall access the Senate floor through the cloakrooms only and such access will be limited to the number of vacant seats available on the Senate floor based on protocol considerations enforced by the Secretaries for the Majority and Minority and the Sergeant at Arms. All persons with access to the Senate floor will remain seated at all times.

Staff Access.—Access to the floor will be strictly limited to those having official impeachment proceedings duties, using the guidelines below:

Majority and Minority leaders will be limited to not more than three assistants each.

Majority and Minority Whips will be limited to not more than two each.

Secretary, Sergeant at Arms, and Secretaries for majority and minority will be limited to themselves or designated replacement.

Legal Counsel, Deputy Legal Counsel, and Counsel for the Secretary and Sergeant at Arms will have access on an as-needed basis.

Pages will be appropriately limited.

Cloakroom staff will be permitted as needed, under supervision of secretaries for the majority or minority, as appropriate.

The Secretary of the Senate's legislative staff will be permitted as needed, under supervision of the Secretary.

Doorkeepers will be permitted as needed, under the supervision of the Sergeant at Arms.

Committee and Member Staff.—Committee and Member Staff will not be permitted on the Senate floor other than as noted above. Accordingly, all messages to Members will be processed in the regular manner, i.e., through the party cloakrooms or the reception room message desk.

Sergeant at Arms.—The Sergeant at Arms shall enforce the above provisions and take such other actions as necessary to fulfill his responsibilities.

EXTENDING PRIVILEGES OF FLOOR ACCESS

In addition to persons with privileges under Senate Rule XXIII, the following shall be admitted to the floor of the Senate while the Senate is sitting for impeachment proceedings;

Not more than two assistants to the Chief Justice.

Assistants to the House Managers.

Counsel and assistants to counsel for the President of the United States.

TICKET ALLOCATIONS AND RELATED PROVISIONS

300 daily tickets; 3 for each Senator.

50 seats reserved daily for the public through established tour procedures using regular gallery passes.

100 permanent numbered tickets; 1 for each Senator, for seating in the family section (enlarged to 100 seats by the Sergeant at Arms) and which may be used on any day and by anyone holding such ticket.

30 daily tickets; 10 each for the Majority and Minority Leaders; 5 each for the Majority and Minority Whips.

20 daily tickets for the White House.

20 tickets for the House of Representatives.

19 daily tickets for diplomats, for use only in the diplomatic gallery.

3 daily tickets for the President of the Senate, for use only in the diplomatic gallery.

9 daily tickets for the Supreme Court.

Press Galleries.—The press galleries shall remain open and available for members of the press under established procedures.

Diplomatic Gallery.—The diplomatic gallery shall remain open and available for diplomatic personnel and guests of the President of the Senate with appropriate tickets, as noted above.

Family Gallery.—The family gallery shall remain open and available for persons holding a permanent ticket as noted above, and such gallery shall be augmented by additional seats located adjacent to the family gallery, so that a total of 100 seats are reserved for persons holding a permanent ticket.

Public Seating.—The Sergeant at Arms shall designate and reserve 50 seats in the Senate Chamber galleries, outside the family and press galleries, for members of the public holding regular gallery passes. All other gallery seats shall be available for persons with daily tickets, except that the Sergeant at Arms shall, in addition to seating the general public in the seats reserved for that purpose, seat the general public holding regular gallery passes in any vacant seats outside the family and press galleries, with the understanding that such members of the general public are subject to being displaced by a permanent ticket holder at the request of the Sergeant at Arms or a member of his staff designated to perform such duties.

Senate Staff.—Senate staff may be seated in any open seat in the family seating area, and will be subject to being displaced by a permanent ticket holder at the request of the Sergeant at Arms or a member of his staff designated to perform such duties.

Printing of the Rules.—The rules of the galleries shall be printed on all tickets.

Sergeant at Arms.—The Sergeant at Arms shall ensure timely and appropriate distribution of all tickets and take such other actions as necessary to fulfill his responsibilities.

ACCESS TO THE SENATE WING OF THE CAPITOL

2nd & 3rd floors.—Access to the second and third floors of the Senate Wing of the Capitol shall be limited to Senators, Senate staff with appropriate Senate identification cards, press with appropriate credentials, Architect of the Capitol staff as necessary, those with Senate Rule XXIII privileges, those with special gallery tickets, those with regular Senate Gallery tickets when the bearer is admitted through tour lines, and anyone with official business related to the impeachment trial.

Architect of the Capitol.—The Architect of the Capitol shall advise the Sergeant at Arms of all Architect staff who require access to the Senate Wing.

Sergeant at Arms.—The Sergeant at Arms shall enforce the above provisions and take such other actions as necessary to fulfill his responsibilities.

MESSAGES FROM THE HOUSE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on December 19, 1998, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the House of Representatives has impeached for high crimes and misdemeanors William Jefferson Clinton, President of the United States; the House of Representatives adopted articles of impeachment against William Jefferson Clinton, which the managers on the part of the House of Representatives have been directed to carry to the Senate; and Mr. HYDE of Illinois, Mr. SENSENBRENNER of Wisconsin, Mr. MCCOLLUM of Florida, Mr. GEKAS of Pennsylvania, Mr. CANADY of Florida, Mr. BUYER of Indiana, Mr. BRYANT of Tennessee, Mr. CHABOT of Ohio, Mr. BARR of Georgia, Mr. HUTCHINSON of Arkansas, Mr. CANNON of Utah, Mr. ROGAN of Cali-

fornia, and Mr. GRAHAM of South Carolina, have been appointed as managers.

HOUSE RESOLUTION 611, IN THE HOUSE OF REPRESENTATIVES, DECEMBER 19, 1998

Resolved, That William Jefferson Clinton, President of the United States, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the United States Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and of the people of the United States of America, against William Jefferson Clinton, President of the United States of America, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a Federal grand jury of the United States. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury concerning one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

In doing this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE II

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.

The means used to implement this course of conduct or scheme included one or more of the following acts:

(1) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

(2) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

(3) On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

(4) Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought

against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

(5) On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

(6) On or about January 18 and January 20–21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

(7) On or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

HOUSE RESOLUTION 614, IN THE HOUSE OF REPRESENTATIVES, DECEMBER 19, 1998

Resolved, That Mr. Hyde of Illinois, Mr. Sensenbrenner of Wisconsin, Mr. McCollum of Florida, Mr. Gekas of Pennsylvania, Mr. Canady of Florida, Mr. Buyer of Indiana, Mr. Bryant of Tennessee, Mr. Chabot of Ohio, Mr. Barr of Georgia, Mr. Hutchinson of Arkansas, Mr. Cannon of Utah, Mr. Rogan of California, and Mr. Graham of South Carolina are appointed managers to conduct the impeachment trial against William Jefferson Clinton, President of the United States, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers so appointed may, in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include the following:

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.

(2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any pleadings, in conjunction with or subsequent to, the exhibition of the articles of impeachment that the managers consider necessary.

MESSAGES FROM THE HOUSE

At 7:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks,

* * * * *

The message further announced that the House has agreed to the following resolution:

HOUSE RESOLUTION 10, IN THE HOUSE OF REPRESENTATIVES, JANUARY 6, 1999

Resolved, That in continuance of the authority conferred in House Resolution 614 of the One Hundred Fifth Congress adopted by the House of Representatives and delivered to the Senate on December 19, 1998, Mr. Hyde of Illinois, Mr. Sensenbrenner of Wisconsin, Mr. McCollum of Florida, Mr. Gekas of Pennsylvania, Mr. Canady of Florida, Mr. Buyer of Indiana, Mr. Bryant of Tennessee, Mr. Chabot of Ohio, Mr. Barr of Georgia, Mr. Hutchinson of Arkansas, Mr. Cannon of Utah, Mr. Rogan of California, and Mr. Graham of South Carolina are appointed managers to

conduct the impeachment trial against William Jefferson Clinton, President of the United States, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers so appointed may, in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include the following:

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.

(2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any pleadings, in conjunction with or subsequent to, the exhibition of the articles of impeachment that the managers consider necessary.

UNANIMOUS-CONSENT AGREEMENT—RELATING TO ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

Mr. LOTT. Mr. President, pursuant to rule I of the Rules of Procedure and Practice When Sitting on Impeachment Trials, I ask unanimous consent that the Secretary of the Senate inform the House of Representatives that the Senate is ready to receive the managers appointed by the House for the purpose of exhibiting articles of impeachment against William Jefferson Clinton, President of the United States, agreeably to the notice communicated to the Senate, and that at the hour of 10 a.m., on Thursday, January 7, 1999, the Senate will receive the honorable managers on the part of the House of Representatives in order that they may present and exhibit the articles of impeachment against William Jefferson Clinton, President of the United States.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. LOTT. Mr. President, pursuant to rules III and IV of the Rules of Procedure and Practice When Sitting on Impeachment Trials, I ask unanimous consent that at the hour of 1 p.m. on Thursday, January 7, 1999, the Senate proceed to the consideration of the articles of impeachment and that the Presiding Officer, through the Secretary of the Senate, notify the Chief Justice of the United States of the time and place fixed for consideration of the articles and requesting his attendance as presiding officer pursuant to Article I, section 3, clause 6, of the U.S. Constitution.

I further ask consent that the Presiding Officer be authorized to appoint a committee of Senators, three upon the recommendation of the majority leader and two upon the recommendation of the Democratic leader, to escort the Chief Justice into the Senate Chamber.

Finally, I ask consent that the Secretary of the Senate be directed to notify the House of Representatives of the time and place fixed for the Senate to proceed upon the impeachment of William Jefferson Clinton in the Senate Chamber.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, the Senate will convene then at 9:45 a.m.

The majority leader will be recognized in order to begin a live quorum. Following that live quorum at approximately 10 a.m., the Senate will prepare to receive the managers from the House of Representatives for the purpose of exhibiting articles of impeachment.

In addition, it is expected that at 1 p.m., the Senate will commence with the swearing in of the Chief Justice of the United States and all Senators.

Mr. President, just one further note, if I might. I know that Senators, members of the media, and the American people are anxious to know how we plan to proceed. I think I should say at this point I think we had a very productive day. A lot of activities have been going on in a bipartisan way between Republicans, among themselves, and with the Democrats in the Senate and in the House. There is, in fact, a meeting underway right now with a bipartisan group of the Senate meeting with a group of managers from the House.

We intend to continue to try to narrow the list of questions and come forward with a proposal that would provide for an early beginning, an appropriate time for briefs to be filed, for a full trial to be provided for, and votes on articles of impeachment at the end of the process. There are a lot of gaps around what I just said, but I think that there is a sincere bipartisan and a nonpartisan effort to do it in a way that is fair and that would get us to a conclusion on this matter which will be presented to us by the House of Representatives.

We have a duty. We will do our very best to carry it out in a way that the American people will feel is appropriate for the Senate and that is dignified and fair.

Mr. MOYNIHAN. Mr. President, will the distinguished majority leader yield?

Mr. LOTT. I am delighted to yield to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, might I just confirm the observations of the distinguished majority leader. He has been faultless in his effort to find agreement on all sides in regard to all questions of which there is yet no list or likely ever to be a final one. But we admire him so and appreciate his efforts and will continue to work with him.

Mr. LOTT. I thank Senator MOYNIHAN for his remarks, for his wisdom, for his leadership, counsel, and the legislative acumen he has exhibited for so many years but also his efforts over this very day to remind us of what our responsibilities are and how difficult they will be and how they can be misconstrued. We will do our best to stand together to get this done in an appropriate way.

I thank the Senator for his comments.

Mr. President, I believe we are about ready to receive the official notification of the managers for the purpose of exhibiting articles of impeachment. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.
The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE—REAPPOINTING MANAGERS
IN RELATION TO THE IMPEACHMENT OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

A message from the House of Representatives by Mr. Hays, one of its reading clerks, announced that the House of Representatives had passed a resolution (H. Res. 10) reappointing managers in relation to the impeachment of William Jefferson Clinton, President of the United States.

The PRESIDING OFFICER. The message will be received and the Senate takes notice of the action by the House.

JANUARY 6, 1999

23

III

105TH CONGRESS
2D SESSION

H. RES. 611

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 1998

Received

RESOLUTION

Impeaching William Jefferson Clinton, President of the
United States, for high crimes and misdemeanors.

1 *Resolved*, That William Jefferson Clinton, President
2 of the United States, is impeached for high crimes and
3 misdemeanors, and that the following articles of impeach-
4 ment be exhibited to the United States Senate:

5 Articles of impeachment exhibited by the House of
6 Representatives of the United States of America in the
7 name of itself and of the people of the United States of
8 America, against William Jefferson Clinton, President of
9 the United States of America, in maintenance and support
10 of its impeachment against him for high crimes and mis-
11 demeanors.

1 ARTICLE I

2 In his conduct while President of the United States,
3 William Jefferson Clinton, in violation of his constitutional
4 oath faithfully to execute the office of President of the
5 United States and, to the best of his ability, preserve, pro-
6 tect, and defend the Constitution of the United States,
7 and in violation of his constitutional duty to take care that
8 the laws be faithfully executed, has willfully corrupted and
9 manipulated the judicial process of the United States for
10 his personal gain and exoneration, impeding the adminis-
11 tration of justice, in that:

12 On August 17, 1998, William Jefferson Clinton swore
13 to tell the truth, the whole truth, and nothing but the
14 truth before a Federal grand jury of the United States.
15 Contrary to that oath, William Jefferson Clinton willfully
16 provided perjurious, false and misleading testimony to the
17 grand jury concerning one or more of the following: (1)
18 the nature and details of his relationship with a subordi-
19 nate Government employee; (2) prior perjurious, false and
20 misleading testimony he gave in a Federal civil rights ac-
21 tion brought against him; (3) prior false and misleading
22 statements he allowed his attorney to make to a Federal
23 judge in that civil rights action; and (4) his corrupt efforts
24 to influence the testimony of witnesses and to impede the
25 discovery of evidence in that civil rights action.

3

1 In doing this, William Jefferson Clinton has under-
2 mined the integrity of his office, has brought disrepute
3 on the Presidency, has betrayed his trust as President,
4 and has acted in a manner subversive of the rule of law
5 and justice, to the manifest injury of the people of the
6 United States.

7 Wherefore, William Jefferson Clinton, by such con-
8 duct, warrants impeachment and trial, and removal from
9 office and disqualification to hold and enjoy any office of
10 honor, trust, or profit under the United States.

11 ARTICLE II

12 In his conduct while President of the United States,
13 William Jefferson Clinton, in violation of his constitutional
14 oath faithfully to execute the office of President of the
15 United States and, to the best of his ability, preserve, pro-
16 tect, and defend the Constitution of the United States,
17 and in violation of his constitutional duty to take care that
18 the laws be faithfully executed, has prevented, obstructed,
19 and impeded the administration of justice, and has to that
20 end engaged personally, and through his subordinates and
21 agents, in a course of conduct or scheme designed to delay,
22 impede, cover up, and conceal the existence of evidence
23 and testimony related to a Federal civil rights action
24 brought against him in a duly instituted judicial proceed-
25 ing.

1 The means used to implement this course of conduct
2 or scheme included one or more of the following acts:

3 (1) On or about December 17, 1997, William
4 Jefferson Clinton corruptly encouraged a witness in
5 a Federal civil rights action brought against him to
6 execute a sworn affidavit in that proceeding that he
7 knew to be perjurious, false and misleading.

8 (2) On or about December 17, 1997, William
9 Jefferson Clinton corruptly encouraged a witness in
10 a Federal civil rights action brought against him to
11 give perjurious, false and misleading testimony if
12 and when called to testify personally in that proceed-
13 ing.

14 (3) On or about December 28, 1997, William
15 Jefferson Clinton corruptly engaged in, encouraged,
16 or supported a scheme to conceal evidence that had
17 been subpoenaed in a Federal civil rights action
18 brought against him.

19 (4) Beginning on or about December 7, 1997,
20 and continuing through and including January 14,
21 1998, William Jefferson Clinton intensified and suc-
22 ceeded in an effort to secure job assistance to a wit-
23 ness in a Federal civil rights action brought against
24 him in order to corruptly prevent the truthful testi-
25 mony of that witness in that proceeding at a time

5

1 when the truthful testimony of that witness would
2 have been harmful to him.

3 (5) On January 17, 1998, at his deposition in
4 a Federal civil rights action brought against him,
5 William Jefferson Clinton corruptly allowed his at-
6 torney to make false and misleading statements to
7 a Federal judge characterizing an affidavit, in order
8 to prevent questioning deemed relevant by the judge.
9 Such false and misleading statements were subse-
10 quently acknowledged by his attorney in a commu-
11 nication to that judge.

12 (6) On or about January 18 and January 20-
13 21, 1998, William Jefferson Clinton related a false
14 and misleading account of events relevant to a Fed-
15 eral civil rights action brought against him to a po-
16 tential witness in that proceeding, in order to cor-
17 ruptly influence the testimony of that witness.

18 (7) On or about January 21, 23, and 26, 1998,
19 William Jefferson Clinton made false and misleading
20 statements to potential witnesses in a Federal grand
21 jury proceeding in order to corruptly influence the
22 testimony of those witnesses. The false and mislead-
23 ing statements made by William Jefferson Clinton
24 were repeated by the witnesses to the grand jury,

1 causing the grand jury to receive false and mislead-
2 ing information.

3 In all of this, William Jefferson Clinton has under-
4 mined the integrity of his office, has brought disrepute
5 on the Presidency, has betrayed his trust as President,
6 and has acted in a manner subversive of the rule of law
7 and justice, to the manifest injury of the people of the
8 United States.

9 Wherefore, William Jefferson Clinton, by such con-
10 duct, warrants impeachment and trial, and removal from
11 office and disqualification to hold and enjoy any office of
12 honor, trust, or profit under the United States.

Passed the House of Representatives December 19,
1998.

NEWT GINGRICH,
Speaker of the House of Representatives.

Attest:

ROBIN H. CARLE,
Clerk.

JANUARY 6, 1999

29

III

105TH CONGRESS
2D SESSION

H. RES. 614

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 1998

Received

RESOLUTION

Appointing the authorizing managers for the impeachment trial of William Jefferson Clinton, President of the United States.

1 *Resolved*, That Mr. Hyde of Illinois, Mr. Sensen-
2 brenner of Wisconsin, Mr. McCollum of Florida, Mr.
3 Gekas of Pennsylvania, Mr. Canady of Florida, Mr. Buyer
4 of Indiana, Mr. Bryant of Tennessee, Mr. Chabot of Ohio,
5 Mr. Barr of Georgia, Mr. Hutchinson of Arkansas, Mr.
6 Cannon of Utah, Mr. Rogan of California, and Mr.
7 Graham of South Carolina are appointed managers to con-
8 duct the impeachment trial against William Jefferson
9 Clinton, President of the United States, that a message
10 be sent to the Senate to inform the Senate of these ap-
11 pointments, and that the managers so appointed may, in
12 connection with the preparation and the conduct of the

1 trial, exhibit the articles of impeachment to the Senate
2 and take all other actions necessary, which may include
3 the following:

4 (1) Employing legal, clerical, and other nec-
5 essary assistants and incurring such other expenses
6 as may be necessary, to be paid from amounts avail-
7 able to the Committee on the Judiciary under appli-
8 cable expense resolutions or from the applicable ac-
9 counts of the House of Representatives.

10 (2) Sending for persons and papers, and filing
11 with the Secretary of the Senate, on the part of the
12 House of Representatives, any pleadings, in conjunc-
13 tion with or subsequent to, the exhibition of the arti-
14 cles of impeachment that the managers consider nec-
15 essary.

Passed the House of Representatives December 19,
1998.

 NEWT GINGRICH,
 Speaker of the House of Representatives.

Attest:

 ROBIN H. CARLE,
 Clerk.

JANUARY 6, 1999

31

III

106TH CONGRESS
1ST SESSION

H. RES. 10

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1999

Received

RESOLUTION

Appointing the authorizing managers for the impeachment trial of William Jefferson Clinton, President of the United States.

1 *Resolved*, That in continuance of the authority con-
2 ferred in House Resolution 614 of the One Hundred Fifth
3 Congress adopted by the House of Representatives and de-
4 livered to the Senate on December 19, 1998, Mr. Hyde
5 of Illinois, Mr. Sensenbrenner of Wisconsin, Mr. McColl-
6 um of Florida, Mr. Gekas of Pennsylvania, Mr. Canady
7 of Florida, Mr. Buyer of Indiana, Mr. Bryant of Ten-
8 nessee, Mr. Chabot of Ohio, Mr. Barr of Georgia, Mr.
9 Hutchinson of Arkansas, Mr. Cannon of Utah, Mr. Rogan
10 of California, and Mr. Graham of South Carolina are ap-
11 pointed managers to conduct the impeachment trial
12 against William Jefferson Clinton, President of the United

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

Attest: **JEFF TRANDAH,**
Clerk.

Sample of Senate Impeachment Trial gallery tickets

(red)



106TH CONGRESS—FIRST SESSION
United States Senate
Impeachment Trial of the
 PRESIDENT OF THE UNITED STATES

DATE

ADMIT BEARER TO THE SENATE PRESS GALLERY


 Sergeant at Arms United States Senate

(white)




106TH CONGRESS—FIRST SESSION
United States Senate
Impeachment Trial of the
 PRESIDENT OF THE UNITED STATES

ADMIT BEARER TO THE SENATE FAMILY GALLERY


 Sergeant at Arms United States Senate

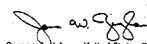
(yellow)
 (issued daily)



106TH CONGRESS—FIRST SESSION
United States Senate
Impeachment Trial of the
 PRESIDENT OF THE UNITED STATES

DATE

ADMIT BEARER TO THE SENATE GALLERY


 Sergeant at Arms United States Senate

Rule VI of Rules for Regulation
 of the Senate Wing of the Capitol
 (printed on reverse of tickets)

RULE VI, GALLERIES

To help make your visit more pleasant, please observe the following rules of the United States Senate Galleries:
 No packages, bundles, cameras, suitcases, calculators, electronic instruments, food, or briefcases are allowed in the Galleries.

Standing or sitting in the doorways and aisles, smoking, applauding, reading, taking notes, taking photographs, and the wearing of hats by men, except for religious purposes, are prohibited. No hats, coats or other objects may be placed on the railings; visitors are prohibited from leaning forward over the railings or placing their hands thereon.

Children under six are not permitted in the Galleries.

Firearms and dangerous weapons are prohibited within the Capitol Buildings and Grounds.

This pass is for your use only, and is not transferable.

ORDER OF PROCEDURE

[From the Congressional Record, January 7, 1999]

Mr. LOTT. Mr. President, I am about to suggest the absence of a quorum. For the information of Senators, this will be a live quorum and, under the previous order, at 10 a.m. the Senate will receive the managers of the House of Representatives to exhibit the articles of impeachment against William Jefferson Clinton, President of the United States.

QUORUM CALL

Mr. LOTT. Accordingly, Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 2]

Abraham	Enzi	Lugar
Akaka	Feingold	Mack
Allard	Feinstein	McCain
Ashcroft	Fitzgerald	McConnell
Baucus	Frist	Mikulski
Bayh	Gorton	Moynihan
Bennett	Graham	Murkowski
Biden	Gramm	Murray
Bingaman	Grams	Nickles
Bond	Grassley	Reed
Boxer	Gregg	Reid
Breaux	Hagel	Robb
Brownback	Harkin	Roberts
Bryan	Hatch	Rockefeller
Bunning	Hollings	Roth
Burns	Hutchinson	Santorum
Byrd	Hutchison	Sarbanes
Campbell	Inhofe	Schumer
Chafee	Inouye	Sessions
Cleland	Jeffords	Shelby
Cochran	Johnson	Smith (NH)
Collins	Kennedy	Smith (OR)
Conrad	Kerrey	Snowe
Coverdell	Kerry	Specter
Craig	Kohl	Stevens
Crapo	Kyl	Thomas
Daschle	Landrieu	Thompson
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Torricelli
Domenici	Levin	Voinovich
Dorgan	Lieberman	Warner
Durbin	Lincoln	Wellstone
Edwards	Lott	Wyden

The PRESIDENT pro tempore. A quorum is present. The Sergeant at Arms will present the managers on the part of the House of Representatives.

EXHIBITION OF ARTICLES OF IMPEACHMENT AGAINST
WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE
UNITED STATES

At 10:05 a.m., the managers on the part of the House of Representatives of the impeachment of William Jefferson Clinton appeared below the bar of the Senate, and the Sergeant at Arms, James W. Ziglar, announced their presence, as follows:

Mr. President and Members of the Senate, I announce the presence of the managers on the part of the House of Representatives to conduct the proceedings on behalf of the House concerning the impeachment of William Jefferson Clinton, President of the United States.

The PRESIDENT pro tempore. The managers on the part of the House will be received and escorted to the well of the Senate.

The managers were thereupon escorted by the Sergeant at Arms of the Senate, James W. Ziglar, to the well of the Senate.

The PRESIDENT pro tempore. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made the proclamation, as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against William Jefferson Clinton, President of the United States.

The PRESIDENT pro tempore. The managers on the part of the House will proceed.

Mr. Manager HYDE. Mr. President, the managers on the part of the House of Representatives are present and ready to present the articles of impeachment which have been preferred by the House of Representatives against William Jefferson Clinton, President of the United States.

The House adopted the following resolution, which with the permission of the Senate I will read.

HOUSE RESOLUTION 10

Resolved, That in continuance of the authority conferred in House Resolution 614 of the One Hundred Fifth Congress adopted by the House of Representatives and delivered to the Senate on December 19, 1998, Mr. Hyde of Illinois, Mr. Sensenbrenner of Wisconsin, Mr. McCollum of Florida, Mr. Gekas of Pennsylvania, Mr. Canady of Florida, Mr. Buyer of Indiana, Mr. Bryant of Tennessee, Mr. Chabot of Ohio, Mr. Barr of Georgia, Mr. Hutchinson of Arkansas, Mr. Cannon of Utah, Mr. Rogan of California, and Mr. Graham of South Carolina are appointed managers to conduct the impeachment trial against William Jefferson Clinton, President of the United States, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers so appointed may, in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include the following:

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.

(2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any pleadings, in conjunction with or subsequent to, the exhibition of the articles of impeachment that the managers consider necessary.

With the permission of the Senate, I will now read the articles of impeachment, House Resolution 611.

HOUSE RESOLUTION 611

Resolved, That William Jefferson Clinton, President of the United States, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the United States Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and of the people of the United States of America, against William Jefferson Clinton, President of the United States of America, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a Federal grand jury of the United States. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury concerning one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

In doing this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE II

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.

The means used to implement this course of conduct or scheme included one or more of the following acts:

(1) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

(2) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

(3) On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

(4) Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

(5) On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

(6) On or about January 18 and January 20–21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

(7) On or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

Passed the House of Representatives December 19, 1998. Newt Gingrich, Speaker of the House of Representatives. Attest: Robin H. Carle, Clerk.

Mr. President, that completes the exhibition of the articles of impeachment against William Jefferson Clinton, President of the United States. The managers request that the Senate take order for the trial. The managers now request leave to withdraw.

The PRESIDENT pro tempore. Thank you, Mr. Manager HYDE. The Senate will notify the House of Representatives when it is ready to proceed.

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

UNANIMOUS CONSENT-AGREEMENT

Mr. LOTT. Mr. President, I modify my previous request and ask unanimous consent that the Presiding Officer be authorized to appoint a committee of six Senators, three upon the recommendation of the majority leader and three upon the recommendation of the Democratic leader, to escort the Chief Justice into the Senate Chamber.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12:45 today. Before the Chair rules on this request, I say as a reminder to all Senators that at 1 p.m. today, following a live quorum, the Chief Justice and all Senators will be sworn in. I thank all Senators.

There being no objection, the Senate, at 10:16 a.m., recessed; whereupon, at 12:49 p.m., the Senate reassembled when called to order by the President pro tempore.

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 11 introduced earlier today.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 11) authorizing the taking of a photograph in the Chamber of the U.S. Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 11) was agreed to.

The resolution reads as follows:

S. RES. 11

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken on January 7, 1999, of the swearing in of Members of the United States Senate for the impeachment trial of the President of the United States.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

APPOINTMENT OF ESCORT COMMITTEE

The PRESIDENT pro tempore. The Chair, pursuant to the order of January 6, 1999, as modified, on behalf of the majority leader, appoints Mr. STEVENS of Alaska, Mr. HATCH of Utah, and Ms. SNOWE of Maine, and on behalf of the Democratic leader, Mr. BYRD of West Virginia, Mr. LEAHY of Vermont, and Ms. MIKULSKI of Maryland.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I am about to suggest the absence of a quorum. For the information of all Senators, this will be a live quorum, and we will under the previous order meet at 1 p.m. to proceed to the consideration of the articles of impeachment which will commence with the swearing in of the Chief Justice of the United States and all Senators.

QUORUM CALL

Mr. LOTT. Accordingly then, Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their name.

[Quorum No. 3]

Abraham	Feingold	Mack
Akaka	Feinstein	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Mikulski
Baucus	Gorton	Moynihan
Bayh	Graham	Murkowski
Bennett	Gramm	Murray
Biden	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Hagel	Robb
Breaux	Harkin	Roberts
Brownback	Hatch	Rockefeller
Bryan	Helms	Roth
Bunning	Hollings	Santorum
Burns	Hutchinson	Sarbanes
Byrd	Hutchinson	Schumer
Campbell	Inhofe	Sessions
Chafee	Inouye	Shelby
Cleland	Jeffords	Smith (NH)
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Lautenberg	Torricelli
Dodd	Leahy	Voinovich
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lincoln	Wyden
Edwards	Lott	
Enzi	Lugar	

The PRESIDENT pro tempore. The Senate will come to order.

Senators will take their seats. All others will remove themselves from the floor.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The PRESIDENT pro tempore. Under the previous order, the hour of 1 p.m. having arrived, and a quorum having been established, the Senate will proceed to the consideration of the articles of impeachment against William Jefferson Clinton, President of the United States.

Mr. LOTT. Mr. President, at this time, pursuant to rule IV of the Senate Rules on Impeachment and the United States Constitution, the Presiding Officer will now administer the oath to William H. Rehnquist, Chief Justice of the United States.

The PRESIDENT pro tempore. Under the previous order, the escort committee will now conduct the Chief Justice of the United States to the dais to be administered the oath.

[Senators rising.]

The Chief Justice was thereupon escorted into the Chamber by Senators STEVENS, BYRD, HATCH, LEAHY, SNOWE, and MIKULSKI.

The PRESIDENT pro tempore. We are pleased to welcome you.

The CHIEF JUSTICE. Senators, I attend the Senate in conformity with your notice, for the purpose of joining with you for the trial of the President of the United States, and I am now ready to take the oath.

The PRESIDENT pro tempore. Will you place your left hand on the Bible, and raise your right hand.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of William Jefferson Clinton, President of the United States, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

The CHIEF JUSTICE. I do.

At this time I will administer the oath to all Senators in the Chamber in conformance with Article I, section 3, clause 6, of the Constitution and the Senate's impeachment rules.

Will all Senators now stand and raise your right hand.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of William Jefferson Clinton, President of the United States, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

SENATORS. I do.

The CHIEF JUSTICE. The clerk will call the names and record the responses.

The legislative clerk called the roll, and the Senators present answered "I do" and signed the Official Oath Book.

The CHIEF JUSTICE. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The majority leader is now recognized.

Mr. LOTT. Mr. Chief Justice, any Senator who was not in the Senate Chamber at the time the oath was administered to the other Senators will make the fact known to the Chair so that the oath may be administered as soon as possible to the Senator. The secretary will note the names of the Senators who have been sworn and will assure that they have signed the book, which will be the Senate's permanent record of the administration of the oath. I ask for the cooperation of all Senators present to please make sure that you sign the oath book today.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. LOTT. Mr. Chief Justice, if there is no objection, I ask that the Senate trial now stand in recess subject to the call of the Chair.

The CHIEF JUSTICE. Is there objection?

Hearing none, it is so ordered.

Thereupon, at 1:42 p.m., the Senate, sitting as a Court of Impeachment, recessed subject to the call of the Chair.

JANUARY 7, 1999

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106TH CONGRESS
1ST SESSION

S. RES. 11

Authorizing the taking of a photograph in the Chamber of the United States
Senate.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 1999

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution;
which was considered and agreed to

RESOLUTION

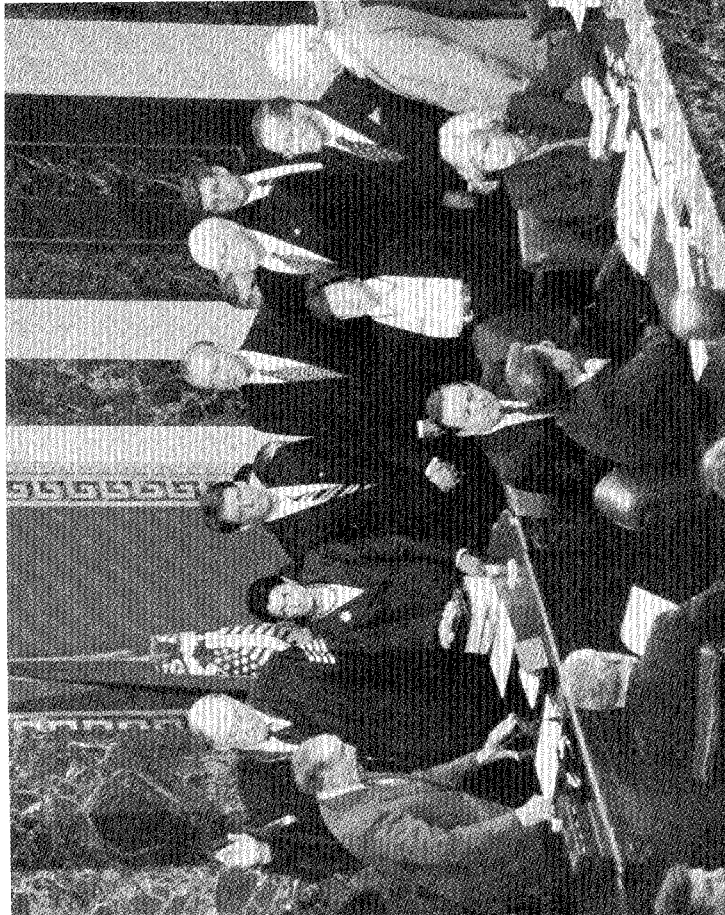
Authorizing the taking of a photograph in the Chamber
of the United States Senate.

1 *Resolved*, That paragraph 1 of rule IV of the Rules
2 for the Regulation of the Senate Wing of the United
3 States Capitol (prohibiting the taking of pictures in the
4 Senate Chamber) be temporarily suspended for the sole
5 and specific purpose of permitting an official photograph
6 to be taken on January 7, 1999, of the swearing in of
7 Members of the United States Senate for the impeachment
8 trial of the President of the United States.

9 SEC. 2. The Sergeant at Arms of the Senate is au-
10 thorized and directed to make the necessary arrangements
11 therefor, which arrangements shall provide for a minimum
12 of disruption to Senate proceedings.

○

January 7, 1999



Photograph taken pursuant to S. Res. 11, 106th Cong. (1999)



Photograph taken pursuant to S. Res. 11, 106th Cong. (1999)

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF
THE UNITED STATES

[From the Congressional Record, January 8, 1999]

The Senate, at 4:02 p.m., reassembled when called to order by the President pro tempore.

When a quorum was established, the Senate resumed sitting as a Court of Impeachment.

The CHIEF JUSTICE. Pursuant to rule III of the rules of procedure for impeachment trials in the U.S. Senate, the Senate will now resume consideration of the articles of impeachment of William Jefferson Clinton. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

PROVIDING FOR ISSUANCE OF A SUMMONS AND FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

Mr. LOTT. Mr. Chief Justice, I am quite pleased to send a resolution to the desk on behalf of myself and the Democratic leadership, Senator DASCHLE, and, in fact, for the entire U.S. Senate, and I ask consent that if the resolution is agreed to by the Senate, it be considered to have the dignity of a unanimous-consent agreement up to the final paragraph.

The CHIEF JUSTICE. Is there objection to the request of the majority leader?

Mr. REID. No objection.

The CHIEF JUSTICE. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 16) to provide for issuance of a summons and for related procedures concerning the articles of impeachment against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The question occurs on Senate Resolution 16 submitted by the majority leader, Mr. LOTT. Pursuant to rule XXIV of the Senate rules on impeachment, the yeas and nays are required on this question.

Mr. BYRD addressed the Chair.

The CHIEF JUSTICE. The Senator from West Virginia.

Mr. BYRD. Parliamentary inquiry. Could the clerk read the resolution for the edification of the Senate at this time.

The CHIEF JUSTICE. If that is the will of the body, the resolution will be read.

Mr. BYRD. I ask unanimous consent that be done.

The CHIEF JUSTICE. Is there objection to the reading of the resolution?

Without objection, it is so ordered.

The clerk will read the resolution in its entirety.

The legislative clerk read as follows:

Resolved, That the summons be issued in the usual form provided that the President may have until 12 noon on Monday, January 11th, to file his answer with the Secretary of the Senate, and the House have until 12 noon on January 13th to file its replication with the Secretary of the Senate, together with the record which will consist of those publicly available materials that have been submitted to or produced by the House Judiciary Committee, including transcripts of public hearings or mark-ups and any materials printed by the House of Representatives or House Judiciary Committee pursuant to House Resolutions 525 and 581. Such record will be admitted into evidence, printed, and made available to Senators. If the House wishes to file a trial brief it shall be filed by 5 p.m. on January 11th.

The President and the House shall have until 5 p.m. on January 11th to file any motions permitted under the rules of impeachment except for motions to subpoena witnesses or to present any evidence not in the record. Responses to any such motions shall be filed no later than 10 a.m. on January 13th. The President may file a trial brief at or before that time. The House may file a rebuttal brief no later than 10 a.m. January 14th.

Arguments on such motions shall begin at 1 p.m. on January 13th, and each side may determine the number of persons to make its presentation, following which the Senate shall deliberate and vote on any such motions. Following the disposition of these motions, or if no motions occur then at 1 p.m. on January 14th, the House shall make its presentation in support of the articles of impeachment for a period of time not to exceed 24 hours. Each side may determine the number of persons to make its presentation. The presentation shall be limited to argument from the record. Following the House presentation. The President shall make his presentation for a period not to exceed 24 hours as outlined in the paragraph above with reference to the House presentation.

Upon the conclusion of the President's presentation, Senators may question the parties for a period of time not to exceed 16 hours.

After the conclusion of questioning by the Senate, it shall be in order to consider and debate a motion to dismiss as outlined by the impeachment rules. Following debate it shall be in order to make a motion to subpoena witnesses and/or present any evidence not in the record, with debate time on that motion limited to 6 hours, to be equally divided between the two parties. Following debate and any deliberation as provided in the impeachment rules, the Senate will proceed to vote on the motion to dismiss, and if defeated, an immediate vote on the motion to subpoena witnesses and/or to present any evidence not in the record, all without any intervening action, motion, amendment or debate.

If the Senate agrees to allow either the House or the President to call witnesses, the witnesses shall first be deposed and the Senate shall decide after deposition which witnesses shall testify, pursuant to the impeachment rules. Further, the time for depositions shall be agreed to by both leaders. No testimony shall be admissible in the Senate unless the parties have had an opportunity to depose such witnesses.

If the Senate fails to dismiss the case, the parties will proceed to present evidence. At the conclusion of the deliberations by the Senate, the Senate shall proceed to vote on each article of impeachment.

The CHIEF JUSTICE. The question occurs on Senate Resolution 16. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 1]

YEAS—100

Abraham	Feingold	Mack
Akaka	Feinstein	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Mikulski
Baucus	Gorton	Moynihan
Bayh	Graham	Murkowski
Bennett	Gramm	Murray
Biden	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Hagel	Robb
Breaux	Harkin	Roberts
Brownback	Hatch	Rockefeller
Bryan	Helms	Roth
Bunning	Hollings	Santorum
Burns	Hutchinson	Sarbanes
Byrd	Hutchison	Schumer
Campbell	Inhofe	Sessions
Chafee	Inouye	Shelby
Cleland	Jeffords	Smith (NH)
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Lautenberg	Torricelli
Dodd	Leahy	Voinovich
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lincoln	Wyden
Edwards	Lott	
Enzi	Lugar	

The resolution (S. Res. 16) was agreed to.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice.

I remind all Senators to please remain until the Chief Justice has departed the Chamber.

ADJOURNMENT

Mr. LOTT. I now ask unanimous consent that the Court of Impeachment stand in adjournment, and that all Senators remain at their desks, as I just suggested, so the Chief Justice can depart the Chamber.

The CHIEF JUSTICE. Without objection, it is so ordered.

Thereupon, at 4:34 p.m., the Senate, sitting as a Court of Impeachment, adjourned.

106TH CONGRESS
1ST SESSION

S. RES. 16

To provide for issuance of a summons and for related procedures concerning the articles of impeachment against William Jefferson Clinton, President of the United States.

IN THE SENATE OF THE UNITED STATES

JANUARY 8, 1999

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution;
which was considered and agreed to

RESOLUTION

To provide for issuance of a summons and for related procedures concerning the articles of impeachment against William Jefferson Clinton, President of the United States.

1 *Resolved*, That the summons be issued in the usual
2 form provided that the President may have until 12:00
3 noon on Monday, January 11, 1999, to file his answer
4 with the Secretary of the Senate, and the House of Rep-
5 resentatives have until 12:00 noon on Wednesday, Janu-
6 ary 13, 1999, to file its replication with the Secretary of
7 the Senate, together with the record which will consist of
8 those publicly available materials that have been submit-

2

1 ted to or produced by the House Judiciary Committee, in-
2 cluding transcripts of public hearings or mark-ups and
3 any materials printed by the House of Representatives or
4 the House Judiciary Committee pursuant to House Reso-
5 lutions 525 and 581. Such record will be admitted into
6 evidence, printed, and made available to Senators. If the
7 House of Representatives wishes to file a trial brief it shall
8 be filed by 5:00 p.m. on Monday, January 11, 1999.

9 The President and the House of Representatives shall
10 have until 5:00 p.m. on Monday, January 11, 1999, to
11 file any motions permitted under the rules of impeachment
12 except for motions to subpoena witnesses or to present any
13 evidence not in the record. Responses to any such motions
14 shall be filed no later than 10:00 a.m. on Wednesday, Jan-
15 uary 13, 1999. The President may file a trial brief at or
16 before that time. The House of Representatives may file
17 a rebuttal brief no later than 10:00 a.m. on Thursday,
18 January 14, 1999.

19 Arguments on such motions shall begin at 1:00 p.m.
20 on Wednesday, January 13, 1999, and each side may de-
21 termine the number of persons to make its presentation,
22 following which the Senate shall deliberate and vote on
23 any such motions. Following the disposition of these mo-
24 tions, or if no motions occur then at 1:00 p.m. on Thurs-
25 day, January 14, 1999, the House of Representatives shall

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1 make it's presentation in support of the articles of im-
2 peachment for a period of time not to exceed 24 hours.
3 Each side may determine the number of persons to make
4 it's presentation. The presentation shall be limited to ar-
5 gument from the record. Following the House of Rep-
6 resentatives presentation, the President shall make his
7 presentation for a period not to exceed 24 hours as out-
8 lined in the paragraph above with reference to the House
9 of Representatives presentation.

10 Upon the conclusion of the President's presentation,
11 Senators may question the parties for a period of time
12 not to exceed 16 hours.

13 After the conclusion of questioning by the Senate, it
14 shall be in order to consider and debate a motion to dis-
15 miss as outlined by the impeachment rules. Following de-
16 bate it shall be in order to make a motion to subpoena
17 witnesses and/or to present any evidence not in the record,
18 with debate time on that motion limited to 6 hours, to
19 be equally divided between the two parties. Following de-
20 bate and any deliberation as provided in the impeachment
21 rules, the Senate will proceed to vote on the motion to
22 dismiss, and if defeated, an immediate vote on the motion
23 to subpoena witnesses and/or to present any evidence not
24 in the record, all without intervening action, motion,
25 amendment or debate.

4

1 If the Senate agrees to allow either the House of Rep-
2 resentatives or the President to call witnesses, the wit-
3 nesses shall first be deposed and the Senate shall decide
4 after deposition which witnesses shall testify, pursuant to
5 the impeachment rules. Further, the time for depositions
6 shall be agreed to by both leaders. No testimony shall be
7 admissible in the Senate unless the parties have had an
8 opportunity to depose such witnesses.

9 If the Senate fails to dismiss the case, the parties
10 will proceed to present evidence. At the conclusion of the
11 deliberations by the Senate, the Senate shall proceed to
12 vote on each article of impeachment.

THE UNITED STATES OF AMERICA, ss:

The Senate of the United States to James W. Ziglar, Sergeant at Arms, United States Senate, greeting:

You are hereby commanded to deliver to and leave with William Jefferson Clinton, if conveniently to be found, or if not, to leave at his usual place of abode, a true and attested copy of the within writ of summons, together with a like copy of this precept; and in whichsoever way you perform the service, let it be done at least 2 days before the answer day mentioned in the said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon indorsed, on or before the day for answering mentioned in the said writ of summons.

Witness Strom Thurmond, President pro tempore of the Senate, at Washington, D.C., this 8th day of January, 1999, the two hundred and twenty-third year of the Independence of the United States.

Attest:



Gay Sisco

Secretary of the Senate.

*Witnessed by:
Strom Thurmond
President Pro Tem
U.S. Senate*

THE UNITED STATES OF AMERICA, ss:

The Senate of the United States to William Jefferson Clinton, greeting:

Whereas the House of Representatives of the United States of America did, on the 7th day of January, 1999, exhibit to the Senate articles of impeachment against you, the said William Jefferson Clinton, in the words following:

"Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and of the people of the United States of America, against William Jefferson Clinton, President of the United States of America, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

"In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

"On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a Federal grand jury of the United States. . Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury concerning one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

"In doing this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

"Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE II

"In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.

"The means used to implement this course of conduct or scheme included one or more of the following acts:

"(1) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

"(2) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

"(3) On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

"(4) Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

“(5) On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

“(6) On or about January 18 and January 20-21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

“(7) On or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

“In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

“Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.”

And demand that you, the said William Jefferson Clinton, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice.

You, the said William Jefferson Clinton, are therefore hereby summoned to file with the Secretary of the United States Senate, S-220 The Capitol, Washington, D.C., 20510, an answer to the said articles of impeachment no later than noon on the 11th day of January, 1999, and thereafter to abide by, obey, and perform such orders, directions, and judgments as the Senate of the United States shall make in the premises according to the Constitution and laws of the United States.

Hereof you are not to fail.

Witness Strom Thurmond, President pro tempore of the Senate,
at Washington, D.C., this 8th day of January, 1999, the two hundred
and twenty-third year of the Independence of the United States.

Attest:



Gary Sisco

Secretary of the Senate.

Witnessed by:
Strom Thurmond
President Pro Tem
U.S. Senate

WRIT OF SUMMONS

57

The foregoing writ of summons, addressed to William Jefferson Clinton, President of the United States, and the foregoing precept, addressed to me, were duly served upon the said William Jefferson Clinton, by my delivering true and attested copies of the same to CHARLES RUFF, at the White House, on the 8th day of January, 1999, at 5:27 p.m.

Attest:



James A. Zif
Sergeant at Arms.

Dated: January 8, 1999

Loretta Symms
Deputy Sergeant
at Arms

Witnesseth:

Gary Sisco,
Secretary
United States Senate

**IN THE SENATE OF THE UNITED STATES
SITTING AS A COURT OF IMPEACHMENT**

In re Impeachment of William Jefferson Clinton President of the United States)))))
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**ANSWER OF
PRESIDENT WILLIAM JEFFERSON CLINTON
TO THE ARTICLES OF IMPEACHMENT**

The Honorable William Jefferson Clinton, President of the United States, in response to the summons of the Senate of the United States, answers the accusations made by the House of Representatives of the United States in the two Articles of Impeachment it has exhibited to the Senate as follows:

PREAMBLE

**THE CHARGES IN THE ARTICLES DO NOT
CONSTITUTE HIGH CRIMES OR MISDEMEANORS**

The charges in the two Articles of Impeachment do not permit the conviction and removal from office of a duly elected President. The President has acknowledged conduct with Ms. Lewinsky that was improper. But Article II, Section 4 of the Constitution provides that the President shall be removed from office only upon "Impeachment for, and Conviction of, Treason, Bribery or other high Crimes and Misdemeanors." The charges in the articles do not rise to the level of "high Crimes and Misdemeanors" as contemplated by the Founding Fathers,

and they do not satisfy the rigorous constitutional standard applied throughout our Nation's history. Accordingly, the Articles of Impeachment should be dismissed.

THE PRESIDENT DID NOT COMMIT PERJURY OR OBSTRUCT JUSTICE

The President denies each and every material allegation of the two Articles of Impeachment not specifically admitted in this ANSWER.

ARTICLE I

President Clinton denies that he made perjurious, false and misleading statements before the federal grand jury on August 17, 1998.

FACTUAL RESPONSES TO ARTICLE I

Without waiving his affirmative defenses, President Clinton offers the following factual responses to the allegations in Article I:

- (1) *The President denies that he made perjurious, false and misleading statements to the grand jury about "the nature and details of his relationship" with Monica Lewinsky.*

There is a myth about President Clinton's testimony before the grand jury. The myth is that the President failed to admit his improper intimate relationship with Ms. Monica Lewinsky. The myth is perpetuated by Article I, which accuses the President of lying about "the nature and details of his relationship" with Ms. Lewinsky.

The fact is that the President specifically acknowledged to the grand jury that he had an improper intimate relationship with Ms. Lewinsky. He said so, plainly and clearly: "When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters . . . did involve inappropriate intimate contact." The President described to the grand jury how the relationship began and how it ended at his

insistence early in 1997 -- long before any public attention or scrutiny. He also described to the grand jury how he had attempted to testify in the deposition in the *Jones* case months earlier without having to acknowledge to the *Jones* lawyers what he ultimately admitted to the grand jury -- that he had an improper intimate relationship with Ms. Lewinsky.

The President read a prepared statement to the grand jury acknowledging his relationship with Ms. Lewinsky. The statement was offered at the beginning of his testimony to focus the questioning in a manner that would allow the Office of Independent Counsel to obtain necessary information without unduly dwelling on the salacious details of the relationship. The President's statement was followed by almost four hours of questioning. If it is charged that his statement was in any respect perjurious, false and misleading, the President denies it. The President also denies that the statement was in any way an attempt to thwart the investigation.

The President states, as he did during his grand jury testimony, that he engaged in improper physical contact with Ms. Lewinsky. The President was truthful when he testified before the grand jury that he did not engage in sexual relations with Ms. Lewinsky as he understood that term to be defined by the *Jones* lawyers during their questioning of him in that deposition. The President further denies that his other statements to the grand jury about the nature and details of his relationship with Ms. Lewinsky were perjurious, false, and misleading.

- (2) *The President denies that he made perjurious, false and misleading statements to the grand jury when he testified about statements he had made in the *Jones* deposition.*

There is a second myth about the President's testimony before the grand jury. The myth is that the President adopted his entire *Jones* deposition testimony in the grand jury. The President was not asked to and did not broadly restate or reaffirm his *Jones* deposition testimony.

instead, in the grand jury he discussed the bases for certain answers he gave. The President testified truthfully in the grand jury about statements he made in the *Jones* deposition. The President stated to the grand jury that he did not attempt to be helpful to or assist the lawyers in the *Jones* deposition in their quest for information about his relationship with Ms. Lewinsky. He truthfully explained to the grand jury his efforts to answer the questions in the *Jones* deposition without disclosing his relationship with Ms. Lewinsky. Accordingly, the full, underlying *Jones* deposition is not before the Senate.

Indeed, the House specifically considered and rejected an article of impeachment based on the President's deposition in the *Jones* case. The House managers should not be allowed to prosecute before the Senate an article of impeachment which the full House has rejected.

- (3) *The President denies that he made perjurious, false and misleading statements to the grand jury about "statements he allowed his attorney to make" during the Jones deposition.*

The President denies that he made perjurious, false and misleading statements to the grand jury about the statements his attorney made during the *Jones* deposition. The President was truthful when he explained to the grand jury his understanding of certain statements made by his lawyer, Robert Bennett, during the *Jones* deposition. The President also was truthful when he testified that he was not focusing on the prolonged and complicated exchange between the attorneys and Judge Wright.

- (4) *The President denies that he made perjurious, false and misleading statements to the grand jury concerning alleged efforts "to influence the testimony of witnesses and to impede the discovery of evidence" in the Jones case.*

For the reasons discussed more fully in response to **ARTICLE II**, the President denies that he attempted to influence the testimony of any witness or to impede the discovery of

evidence in the *Jones* case. Thus, the President denies that he made perjurious, false and misleading statements before the grand jury when he testified about these matters.

**FIRST AFFIRMATIVE DEFENSE:
ARTICLE I DOES NOT MEET THE CONSTITUTIONAL
STANDARD FOR CONVICTION AND REMOVAL**

For the same reasons set forth in the **PREAMBLE** of this **ANSWER**, Article I does not meet the rigorous constitutional standard for conviction and removal from office of a duly elected President and should be dismissed.

**SECOND AFFIRMATIVE DEFENSE:
ARTICLE I IS TOO VAGUE TO PERMIT CONVICTION AND REMOVAL**

Article I is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against the President. It alleges that the President provided the grand jury with “perjurious, false, and misleading testimony” concerning “one or more” of four subject areas. But it fails to identify any specific statement by the President that is alleged to be perjurious, false and misleading. The House has left the Senate and the President to guess at what it had in mind.

One of the fundamental principles of our law and the Constitution is that a person has a right to know what specific charges he or she is facing. Without such fair warning, no one can prepare the defense to which every person is entitled. The law and the Constitution also mandate adequate notice to jurors so they may know the basis for the vote they must make. Without a definite and specific identification of false statements, a trial becomes a moving target for the accused. In addition, the American people deserve to know upon what specific statements the

President is being judged, given the gravity and effect of these proceedings, namely nullifying the results of a national election.

Article I sweeps broadly and fails to provide the required definite and specific identification. Were it an indictment, it would be dismissed. As an article of impeachment, it is constitutionally defective and should fail.

**THIRD AFFIRMATIVE DEFENSE:
ARTICLE I CHARGES MULTIPLE OFFENSES IN ONE ARTICLE**

Article I is fatally flawed because it charges multiple instances of alleged perjurious, false and misleading statements in one article. The Constitution provides that “no person shall be convicted without the Concurrence of two thirds of the Members present,” and Senate Rule XXIII provides that “an article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial.” By the express terms of Article I, a Senator may vote for impeachment if he or she finds that there was perjurious, false and misleading testimony in “one or more” of four topic areas. This creates the very real possibility that conviction could occur even though Senators were in wide disagreement as to the alleged wrong committed. Put simply, the structure of Article I presents the possibility that the President could be convicted even though he would have been acquitted if separate votes were taken on each allegedly perjurious statement. For example, it would be possible for the President to be convicted and removed from office with as few as 17 Senators agreeing that any single statement was perjurious, because 17 votes for each of the four categories in Article I would yield 68 votes, one more than necessary to convict and remove.

By charging multiple wrongs in one article, the House of Representatives has made it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of two-thirds of the members. Accordingly, Article I should fail.

ARTICLE II

President Clinton denies that he obstructed justice in either the *Jones* case or the Lewinsky grand jury investigation.

FACTUAL RESPONSES TO ARTICLE II

Without waiving his affirmative defenses, President Clinton offers the following factual responses to the allegations in Article II:

- (1) *The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading."*

The President denies that he encouraged Monica Lewinsky to execute a false affidavit in the *Jones* case. Ms. Lewinsky, the only witness cited in support of this allegation, denies this allegation as well. Her testimony and proffered statements are clear and unmistakable:

- "[N]o one ever asked me to lie and I was never promised a job for my silence."
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie . . ."
- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie."

The President states that, sometime in December 1997, Ms. Lewinsky asked him whether she might be able to avoid testifying in the *Jones* case because she knew nothing about Ms. Jones or the case. The President further states that he told her he believed other witnesses had executed affidavits, and there was a chance they would not have to testify. The President denies that he

ever asked, encouraged or suggested that Ms. Lewinsky file a false affidavit or lie. The President states that he believed that Ms. Lewinsky could have filed a limited but truthful affidavit that might have enabled her to avoid having to testify in the *Jones* case.

- (2) *The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to give perjurious, false and misleading testimony if and when called to testify personally" in the Jones litigation.*

Again, the President denies that he encouraged Ms. Lewinsky to lie if and when called to testify personally in the *Jones* case. The testimony and proffered statements of Monica Lewinsky, the only witness cited in support of this allegation, are clear and unmistakable:

- "[N]o one ever asked me to lie and I was never promised a job for my silence."
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie . . ."
- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie."

The President states that, prior to Ms. Lewinsky's involvement in the *Jones* case, he and Ms. Lewinsky might have talked about what to do to conceal their relationship from others. Ms. Lewinsky was not a witness in any legal proceeding at that time. Ms. Lewinsky's own testimony and statements support the President's recollection. Ms. Lewinsky testified that she "pretty much can" exclude the possibility that she and the President ever had discussions about denying the relationship after she learned she was a witness in the *Jones* case. Ms. Lewinsky also stated that "they did not discuss the issue [of what to say about their relationship] in specific relation to the *Jones* matter," and that "she does not believe they discussed the content of any deposition that [she] might be involved in at a later date."

- (3) *The President denies that on or about December 28, 1997, he "corruptly engaged in, encouraged, or supported a scheme to conceal evidence" in the Jones case.*

The President denies that he engaged in, encouraged, or supported any scheme to conceal evidence from discovery in the *Jones* case, including any gifts he had given to Ms. Lewinsky. The President states that he gave numerous gifts to Ms. Lewinsky prior to December 28, 1997. The President states that, sometime in December, Ms. Lewinsky inquired as to what to do if she were asked in the *Jones* case about the gifts he had given her, to which the President responded that she would have to turn over whatever she had. The President states that he was unconcerned about having given her gifts and, in fact, that he gave Ms. Lewinsky additional gifts on December 28, 1997. The President denies that he ever asked his secretary, Ms. Betty Currie, to retrieve gifts he had given Ms. Lewinsky, or that he ever asked, encouraged, or suggested that Ms. Lewinsky conceal the gifts. Ms. Currie told prosecutors as early as January 1998 and repeatedly thereafter that it was Ms. Lewinsky who had contacted her about retrieving gifts.

- (4) *The President denies that he obstructed justice in connection with Monica Lewinsky's efforts to obtain a job in New York to "corruptly prevent" her "truthful testimony" in the Jones case.*

The President denies that he obstructed justice in connection with Ms. Lewinsky's job search in New York or sought to prevent her truthful testimony in the *Jones* case. The President states that he discussed with Ms. Lewinsky her desire to obtain a job in New York months before she was listed as a potential witness in the *Jones* case. Indeed, Ms. Lewinsky was offered a job in New York at the United Nations more than a month before she was identified as a possible witness. The President also states that he believes that Ms. Lewinsky raised with him, again before she was ever listed as a possible witness in the *Jones* case, the prospect of having Mr.

Vernon Jordan assist in her job search. Ms. Lewinsky corroborates his recollection that it was her idea to ask for Mr. Jordan's help. The President also states that he was aware that Mr. Jordan was assisting Ms. Lewinsky to obtain employment in New York. The President denies that any of these efforts had any connection whatsoever to Ms. Lewinsky's status as a possible or actual witness in the *Jones* case. Ms. Lewinsky forcefully confirmed the President's denial when she testified, "I was never promised a job for my silence."

- (5) *The President denies that he "corruptly allowed his attorney to make false and misleading statements to a Federal judge" concerning Monica Lewinsky's affidavit.*

The President denies that he corruptly allowed his attorney to make false and misleading statements concerning Ms. Lewinsky's affidavit to a Federal judge during the *Jones* deposition. The President denies that he was focusing his attention on the prolonged and complicated exchange between his attorney and Judge Wright.

- (6) *The President denies that he obstructed justice by relating "false and misleading statements" to "a potential witness," Betty Currie, "in order to corruptly influence [her] testimony."*

The President denies that he obstructed justice or endeavored in any way to influence any potential testimony of Ms. Betty Currie. The President states that he spoke with Ms. Currie on January 18, 1998. The President testified that, in that conversation, he was trying to find out what the facts were, what Ms. Currie's perception was, and whether his own recollection was correct about certain aspects of his relationship with Ms. Lewinsky. Ms. Currie testified that she felt no pressure "whatsoever" from the President's statements and no pressure "to agree with [her] boss." The President denies knowing or believing that Ms. Currie would be a witness in any proceeding at the time of this conversation. Ms. Currie had not been on any of the witness

lists proffered by the *Jones* lawyers. President Clinton states that, after the Independent Counsel investigation became public, when Ms. Currie was scheduled to testify, he told Ms. Currie to “tell the truth.”

(7) *The President denies that he obstructed justice when he relayed allegedly “false and misleading statements” to his aides.*

The President denies that he obstructed justice when he misled his aides about the nature of his relationship with Ms. Lewinsky in the days immediately following the public revelation of the Lewinsky investigation. The President acknowledges that, in the days following the January 21, 1998 *Washington Post* article, he misled his family, his friends and staff, and the Nation to conceal the nature of his relationship with Ms. Lewinsky. He sought to avoid disclosing his personal wrongdoing to protect his family and himself from hurt and public embarrassment. The President profoundly regrets his actions, and he has apologized to his family, his friends and staff, and the Nation. The President denies that he had any corrupt purpose or any intent to influence the ongoing grand jury proceedings.

**FIRST AFFIRMATIVE DEFENSE:
ARTICLE II DOES NOT MEET THE CONSTITUTIONAL
STANDARD FOR CONVICTION AND REMOVAL**

For the reasons set forth in the **PREAMBLE** of this **ANSWER**, Article II does not meet the constitutional standard for convicting and removing a duly elected President from office and should be dismissed.

**SECOND AFFIRMATIVE DEFENSE:
ARTICLE II IS TOO VAGUE TO PERMIT CONVICTION AND REMOVAL**

Article II is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against the President. Article II alleges that the President “obstructed

and impeded the administration of justice” in both the *Jones* case and the grand jury investigation. But it provides little or no concrete information about the specific acts in which the President is alleged to have engaged, or with whom, or when, that allegedly obstructed or otherwise impeded the administration of justice.

As we set forth in the **SECOND AFFIRMATIVE DEFENSE TO ARTICLE I**, one of the fundamental principles of our law and the Constitution is that a person has the right to know what specific charges he or she is facing. Without such fair warning, no one can mount the defense to which every person is entitled. Fundamental to due process is the right of the President to be adequately informed of the charges so that he is able to confront those charges and defend himself.

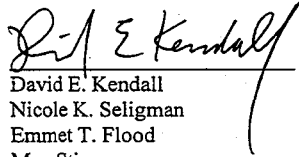
Article II sweeps too broadly and provides too little definite and specific identification. Were it an indictment, it would be dismissed. As an article of impeachment, it is constitutionally defective and should fail.

**THIRD AFFIRMATIVE DEFENSE:
ARTICLE II CHARGES MULTIPLE OFFENSES IN ONE ARTICLE**

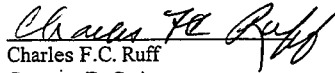
For the reasons set forth in the **THIRD AFFIRMATIVE DEFENSE TO ARTICLE I**, Article II is constitutionally defective because it charges multiple instances of alleged acts of obstruction in one article, which makes it impossible for the Senate to comply with the

Constitutional mandate that any conviction be by the concurrence of the two-thirds of the members. Accordingly, Article II should fail.

Respectfully submitted,



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Submitted: January 11, 1999

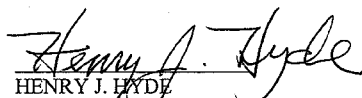
IN THE SENATE OF THE UNITED STATES
Sitting as a Court of Impeachment

In Re)
)
Impeachment of)
President William Jefferson Clinton)

Trial Memorandum
of the
United States House of Representatives

Respectfully submitted,

The United States
House of Representatives



HENRY J. HYDE
F. JAMES SENSENBRENNER, JR.
BILL McCOLLUM
GEORGE W. GEKAS
CHARLES T. CANADY
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ED BRYANT
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CHRIS CANNON
JAMES E. ROGAN
LINDSEY O. GRAHAM

Managers on the Part of the House

IN THE SENATE OF THE UNITED STATES
Sitting as a Court of Impeachment

In Re)
)
Impeachment of)
President William Jefferson Clinton)

TRIAL MEMORANDUM OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

Now comes the United States House of Representatives, by and through its duly authorized Managers, and respectfully submits to the United States Senate its Brief in connection with the Impeachment Trial of William Jefferson Clinton, President of the United States.

SUMMARY

The President is charged in two Articles with: 1) Perjury and false and misleading testimony and statements under oath before a federal grand jury (Article I), and 2) engaging in a course of conduct or scheme to delay and obstruct justice (Article II).

The evidence contained in the record, when viewed as a unified whole, overwhelmingly supports both charges.

Perjury and False Statements Under Oath

President Clinton deliberately and willfully testified falsely under oath when he appeared before a federal grand jury on August 17, 1998. Although what follows is not exhaustive,

some of the more overt examples will serve to illustrate.

- At the very outset, the President read a prepared statement, which itself contained totally false assertions and other clearly misleading information.
- The President relied on his statement nineteen times in his testimony when questioned about his relationship with Ms. Lewinsky.
- President Clinton falsely testified that he was not paying attention when his lawyer employed Ms. Lewinsky's false affidavit at the Jones deposition.
- He falsely claimed that his actions with Ms. Lewinsky did not fall within the definition of "sexual relations" that was given at his deposition.
- He falsely testified that he answered questions truthfully at his deposition concerning, among other subjects, whether he had been alone with Ms. Lewinsky.
- He falsely testified that he instructed Ms. Lewinsky to turn over the gifts if she were subpoenaed.
- He falsely denied trying to influence Ms. Currie after his deposition.
- He falsely testified that he was truthful to his aides when he gave accounts of his relationship, which accounts were subsequently disseminated to the media and the grand jury.

Obstruction of Justice

The President engaged in an ongoing scheme to obstruct both the Jones civil case and the grand jury. Further, he undertook a continuing and concerted plan to tamper with witnesses and prospective witnesses for the purpose of causing those witnesses to provide false and misleading testimony. Examples abound:

- The President and Ms. Lewinsky concocted a cover story to conceal their relationship, and the President suggested that she employ that story if subpoenaed in the Jones case.
- The President suggested that Ms. Lewinsky provide an affidavit to avoid testifying in the Jones case, when he knew that the affidavit would need to be false to accomplish its purpose.
- The President knowingly and willfully allowed his attorney to file Ms. Lewinsky's false affidavit and to use it for the purpose of obstructing justice in the Jones case.
- The President suggested to Ms. Lewinsky that she provide a false account of how she received her job at the Pentagon.
- The President attempted to influence the expected testimony of his secretary, Ms. Currie, by providing her with a false account of his meetings with Ms.

Lewinsky.

The President provided several of his top aides with elaborate lies about his relationship with Ms.

Lewinsky, so that those aides would convey the false information to the public and to the grand jury. When he did this, he knew that those aides would likely be called to testify, while he was declining several invitations to testify. By this action, he obstructed and delayed the operation of the grand jury.

- The President conspired with Ms. Lewinsky and Ms. Currie to conceal evidence that he had been subpoenaed in the Jones case, and thereby delayed and obstructed justice.
- The President and his representatives orchestrated a campaign to discredit Ms. Lewinsky in order to affect adversely her credibility as a witness, and thereby attempted to obstruct justice both in the Jones case and the grand jury.
- The President lied repeatedly under oath in his deposition in the Jones case, and thereby obstructed justice in that case.
- The President's lies and misleading statements under oath at the grand jury were calculated to, and did obstruct, delay and prevent the due administration of

justice by that body.

The President employed the power of his office to procure a job for Ms. Lewinsky after she signed the false affidavit by causing his friend to exert extraordinary efforts for that purpose.

The foregoing are merely accusations of an ongoing pattern of obstruction of justice, and witness tampering extending over a period of several months, and having the effect of seriously compromising the integrity of the entire judicial system.

The effect of the President's misconduct has been devastating in several respects.

- 1) He violated repeatedly his oath to "preserve, protect and defend the Constitution of the United States."
- 2) He ignored his constitutional duty as chief law enforcement officer to "take care that the laws be faithfully executed."
- 3) He deliberately and unlawfully obstructed Paula Jones's rights as a citizen to due process and the equal protection of the laws, though he had sworn to protect those rights.
- 4) By his pattern of lies under oath, misleading statements and deceit, he has seriously undermined the integrity and credibility of the Office of President and thereby the honor and integrity of the United States.
- 5) His pattern of perjuries, obstruction of justice, and

witness tampering has affected the truth seeking process which is the foundation of our legal system.

6) By mounting an assault in the truth seeking process, he has attacked the entire Judicial Branch of government.

The Articles of Impeachment that the House has preferred state offenses that warrant, if proved, the conviction and removal from office of President William Jefferson Clinton. The Articles charge that the President has committed perjury before a federal grand jury and that he obstructed justice in a federal civil rights action. The Senate's own precedents establish beyond doubt that perjury warrants conviction and removal. During the 1980s, the Senate convicted and removed three federal judges for committing perjury. Obstruction of justice undermines the judicial system in the same fashion that perjury does, and it also warrants conviction and removal.

Under our Constitution, judges are impeached under the same standard as Presidents -- treason, bribery, or other high crimes and misdemeanors. Thus, these judicial impeachments for perjury set the standard here. Finally, the Senate's own precedents further establish that the President's crimes need not arise directly out of his official duties. Two of the three judges removed in the 1980s were removed for perjury that had nothing to do with their official duties.

INTRODUCTION

This Brief is intended solely to advise the Senate generally of the evidence that the Managers intend to produce, if permitted, and of the applicable legal principles. It is not intended to discuss exhaustively all of the evidence, nor does it necessarily include each and every witness and document that the Managers would produce in the course of the trial. This Brief, then, is merely an outline for the use of the Senate in reviewing and assessing the evidence as it is set forth at trial - it is not, and is not intended to be a substitute for a trial at which all of the relevant facts will be developed.

H. RES. 611, 105th Cong. 2nd Sess. (1998).

The House Impeachment Resolution charges the President with high crimes and misdemeanors in two Articles. Article One alleges that President Clinton "willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice" in that he willfully provided perjurious, false and misleading testimony to a federal grand jury on August 17, 1998. Article Two asserts that the President "has prevented, obstructed, and impeded the administration of justice and engaged in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a federal civil rights action brought against him." Both Articles are now before the Senate of the United States for trial

as provided by the Constitution of the United States.

The Office of President represents to the American people and to the world, the strength, the philosophy and most of all, the honor and integrity that makes us a great nation and an example for the world. Because all eyes are focused upon that high office, the character and credibility of any temporary occupant of the Oval Office is vital to the domestic and foreign welfare of the citizens. Consequently, serious breaches of integrity and duty of necessity adversely influence the reputation of the United States.

This case is not about sex or private conduct. It is about multiple obstructions of justice, perjury, false and misleading statements, and witness tampering - all committed or orchestrated by the President of the United States.

Before addressing the President's lies and obstruction, it is important to place the events in the proper context. If this were only about private sex we would not now be before the Senate. But the manner in which the Lewinsky relationship arose and continued is important because it is illustrative of the character of the President and the decisions he made.

BACKGROUND

Monica Lewinsky, a 22 year old intern, (ML 8/6/98 GJ, p. 8; H.Doc. 105-311, p. 728) was working at the White House during the government shutdown in 1995. (ML 8/6/98 GJ, p. 10; H.Doc. 105-

311, p. 730) Prior to their first intimate encounter, she had never even spoken with the President. Sometime on November 15, 1995, Ms. Lewinsky and President Clinton flirted with each other. (*Id.*) The President of the United States of America then invited this unknown young intern into a private area off the Oval Office where he kissed her. He then invited her back later and when she returned, the two engaged in the first of many acts of inappropriate contact. (ML 8/6/98 GJ, p. 12; H.Doc. 105-311, p. 732)

Thereafter, the two concocted a cover story. If Ms. Lewinsky were seen, she was bringing papers to the President. That story was totally false. (ML 8/6/98 GJ, p. 54; H.Doc. 105-311, p. 774; 8/26/98 Dep., p. 34; H.Doc. 105-311, p. 1314) The only papers she brought were personal messages having nothing to do with her duties or those of the President. (ML 8/6/98 GJ, pgs. 54-55; H.Doc. 105-311, pp 774-775) After Ms. Lewinsky moved from the White House to the Pentagon, her frequent visits to the President were disguised as visits to Betty Currie. (*Id.*) Those cover stories are important, because they play a vital role in the later perjuries and obstructions.

ENCOUNTERS

Over the term of their relationship the following significant matters occurred:

1. Monica Lewinsky and the President were alone on at least

twenty-one occasions;

2. They had at least eleven personal sexual encounters, excluding phone sex:

Three in 1995

Five in 1996 and

Three in 1997;

3. They had at least 55 telephone conversations, at least seventeen of which involved phone sex;

4. The President gave Ms. Lewinsky twenty presents; and,

5. Ms. Lewinsky gave the President forty presents. (O.I.C. Referral, App., Tab E; H.Doc. 105-311, pgs. 104-111)

These are the essential facts which form the backdrop for all of the events that followed.

The sexual details of the President's encounters with Ms. Lewinsky, though relevant, need not be detailed either in this document or through witness testimony. It is necessary, though, briefly to outline that evidence, because it will demonstrate that the President repeatedly lied about that sexual relationship in his deposition, before the grand jury, and in his responses to the Judiciary Committee's questions. He has consistently maintained that Ms. Lewinsky merely performed acts on him, while he never touched her in a sexual manner. This characterization not only directly contradicts Ms. Lewinsky's testimony, but it also contradicts the sworn grand jury testimony of three of her

friends and the statements by two professional counselors with whom she contemporaneously shared the details of her relationship. (O.I.C. Referral, H.Doc. 105-310, pgs. 138-140)

While his treatment of Ms. Lewinsky was offensive, it is much more offensive for the President to expect the Senate to believe that in 1995, 1996, and 1997, his intimate contact with Ms. Lewinsky was so limited that it did not fall within his narrow interpretation of a definition of "sexual relations". As later demonstrated, he did not even conceive his interpretation until 1998, while preparing for his grand jury appearance.

HOW TO VIEW THE EVIDENCE

We respectfully submit that the evidence and testimony must be viewed as a whole; it cannot be compartmentalized. It is essential to avoid considering each event in isolation, and then treating it separately. Events and words that may seem innocent or even exculpatory in a vacuum may well take on a sinister, or even criminal connotation when observed in the context of the whole plot. For example, everyone agrees that Monica Lewinsky testified "No one ever told me to lie; nobody ever promised me a job." (ML 8/20/98 GJ, p. 105; H.Doc. 105-311, p. 1161)

When considered alone this would seem exculpatory. However, in the context of the other evidence, another picture emerges. Of course no one said, "Now, Monica, you go in there and lie." They didn't have to. Ms. Lewinsky knew what was expected of her.

Similarly, nobody promised her a job, but once she signed the false affidavit, she got one.

THE ISSUE

The ultimate issue is whether the President's course of conduct is such as to affect adversely the Office of the President and also upon the administration of justice, and whether he has acted in a manner contrary to his trust as President and subversive to the Rule of Law and Constitutional government.

THE BEGINNING

The events that form the basis of these charges actually began in late 1995. They reached a critical stage in the winter of 1997 and the first month of 1998. The event culminated when the President of the United States appeared before a federal grand jury, raised his right hand to God and swore to tell the truth, the whole truth, and nothing but the truth.

December 5-6, 1997

On Friday, December 5, 1997, Monica Lewinsky asked Betty Currie if the President could see her the next day, Saturday, but Ms. Currie said that the President was scheduled to meet with his lawyers all day. (ML 8/6/98 GJ, pgs. 107-108; H.Doc. 105-311, pgs. 827-828) Later that Friday, Ms. Lewinsky spoke briefly to the President at a Christmas party. (ML 7/31/98 Int., p. 1;

H.Doc. 105-311, p. 1451; ML 8/6/98 GJ, p. 108; H.Doc. 105-311, p. 828)

THE WITNESS LIST IS RECEIVED

That evening, Paula Jones's attorneys faxed a list of potential witnesses to the President's attorneys. (849-DC-00000128; 849-DC-00000121-37; Referral, H.Doc. 105-311, p. 88) The list included Monica Lewinsky. However, Ms. Lewinsky did not find out that her name was on the list until the President told her ten days later, on December 17. (ML 8/6/98 GJ, pgs. 121-123; H.Doc. 105-311, pgs. 841-843) That delay is significant.

MS. LEWINSKY'S FIRST VISIT

After her conversation with Ms. Currie and seeing the President at the Christmas party, Ms. Lewinsky drafted a letter to the President terminating their relationship. (ML-55-DC-0177; ML 7/31/98 Int., p. 2; H.Doc. 105-311, p. 1452) The next morning, Saturday, December 6, Ms. Lewinsky went to the White House to deliver the letter and some gifts for the President to Ms. Currie. (ML 8/6/98 GJ, pgs. 108-109; H.Doc. 105-311, pgs. 828-829) When she arrived at the White House, Ms. Lewinsky spoke to several Secret Service officers, and one of them told her that the President was not with his lawyers, as she thought, but rather, he was meeting with Eleanor Mondale. (ML 8/6/98 GJ, p. 111; H.Doc 105-311, p. 831; Mondale 7/16/98 Int., p. 1; H.Doc 105-316, pgs. 2907-2908; H.Doc. 105-311, p. 2654) Ms. Lewinsky

called Ms. Currie from a pay phone, angrily exchanged words with her, and went home. (ML 8/6/98 GJ, pgs. 112-13; H.Doc. 105-311, pgs. 832-833; Currie 1/27/98 GJ, p. 37; H.Doc. 105-316, p. 553) After that phone call, Ms. Currie told the Secret Service watch commander that the President was so upset about the disclosure of his meeting with Ms. Mondale that he wanted somebody fired. (Purdie 7/23/98 GJ, pgs. 13, 18-19; H.Doc. 105-316, pgs. 3356-3357)

THE TELEPHONE CONVERSATIONS

At 12:05 p.m., records demonstrate that Ms. Currie paged Bruce Lindsey with the message: "Call Betty ASAP." (964-DC-00000862; H.Doc. 105-311, p. 2722) Around that same time, according to Ms. Lewinsky, while she was back at her apartment, Ms. Lewinsky and the President spoke by phone. The President was very angry; he told Ms. Lewinsky that no one had ever treated him as poorly as she had. (ML 8/6/98 GJ, pgs. 113-14; H.Doc 105-311, pgs. 833-834) The President acknowledged to the grand jury that he was upset about Ms. Lewinsky's behavior and considered it inappropriate. (WJC 8/17/98 GJ, p. 85; H.Doc. 105-311, p. 537) Nevertheless, in a sudden change of mood, he invited her to visit him at the White House that afternoon. (ML 8/6/98 GJ, p. 114; H.Doc. 105-311, p. 834)

MS. LEWINSKY'S SECOND VISIT

Monica Lewinsky arrived at the White House for the second

time that day and was cleared to enter at 12:52 p.m. (WAVES: 827-DC-00000018) Although, in Ms. Lewinsky's words, the President was "very angry" with her during their recent telephone conversation, he was "sweet" and "very affectionate" during this visit. (ML 8/6/98 GJ, pgs. 113-15; H.Doc. 105-311, pgs. 833-835) He also told her that he would talk to Vernon Jordan about her job situation. (ML 8/6/98 GJ, pgs. 115-16; H.Doc. 105-311, pgs. 835-836)

THE DISCUSSIONS WITH THE SECRET SERVICE

The President also suddenly changed his attitude toward the Secret Service. Ms. Currie informed some officers that if they kept quiet about the Lewinsky incident, there would be no disciplinary action. (Williams 7/23/98 GJ, pgs. 25, 27-28; H.Doc. 105-316, p. 4539; Chinery 7/23/98 GJ, p. 22-23; H.Doc. 105-316, p. 456) According to the Secret Service watch commander, Captain Jeffrey Purdie, the President personally told him, "I hope you use your discretion" or "I hope I can count on your discretion." (Purdie 7/23/98 GJ, p. 32; H.Doc. 105-316, p. 3360; Purdie 7/17/98 GJ, p. 3; H.Doc. 105-316, p. 3353) Deputy Chief Charles O'Malley, Captain Purdie's supervisor, testified that he knew of no other time in his fourteen years of service at the White House where the President raised a performance issue with a member of the Secret Service uniformed division. (O'Malley 9/8/98 Dep., pgs. 40-41; H.Doc. 105-316, pgs. 3168-3171) After his

conversation with the President, Captain Purdie told a number of officers that they should not discuss the Lewinsky incident. (Porter 8/13/98 GJ, p. 12; H.Doc. 105-316, p. 3343; Niedzwiecki 7/30/98 GJ, pgs. 30-31; H.Doc. 105-316, p. 3114)

When the President was before the grand jury and questioned about his statements to the Secret Service regarding this incident, the President testified, "I don't remember what I said and I don't remember to whom I said it." (WJC 8/17/98 GJ, p. 86; H.Doc. 105-311, p. 534) When confronted with Captain Purdie's testimony, the President testified, "I don't remember anything I said to him in that regard. I have no recollection of that whatever." (WJC 8/17/98 GJ, p. 91; H.Doc. 105-311 p. 543)

THE PRESIDENT'S KNOWLEDGE OF THE WITNESS LIST

President Clinton testified before the grand jury that he learned that Ms. Lewinsky was on the Jones witness list that evening, Saturday, December 6, during a meeting with his lawyers. (WJC 8/17/98 GJ, p. 83-84; H.Doc. 105-311, p. 535-536) He stood by this answer in response to Request Number 16 submitted by the Judiciary Committee. (Exhibit 18) The meeting occurred around 5 p.m., after Ms. Lewinsky had left the White House. (WAVES: 1407-DC-00000005; Lindsey 3/12/98 GJ, pgs. 64-66; H.Doc. 105-316, pgs. 2418-19) According to Bruce Lindsey, at the meeting, Bob Bennett had a copy of the Jones witness list faxed to Mr. Bennett the previous night. (Lindsey 3/12/98 GJ, pgs. 65-

67; H.Doc. 105-316, p. 2419) (Exhibit 15)

However, during his deposition, the President testified that he had heard about the witness list before he saw it. (WJC 1/17/98 Dep., p. 70) In other words, if the President testified truthfully in his deposition, then he knew about the witness list before the 5 p.m. meeting. It is valid to infer that hearing Ms. Lewinsky's name on a witness list prompted the President's sudden and otherwise unexplained change from "very angry" to "very affectionate" that Saturday afternoon. It is also reasonable to infer that it prompted him to give the unique instruction to a Secret Service watch commander to use "discretion" regarding Ms. Lewinsky's visit to the White House, which the watch commander interpreted as an instruction to refrain from discussing the incident. (Purdie 7/17/98 GJ, pgs. 20-21; H.Doc. 105-316, pgs. 3351-3352; Purdie 7/23/98 GJ, pgs. 32-33; H.Doc. 105-315, pgs. 3360-3361)

THE JOB SEARCH FOR MS. LEWINSKY

Monica Lewinsky had been looking for a good paying and high profile job in New York since the previous July. She was not having much success despite the President's promise to help. In early November, Betty Currie arranged a meeting with Vernon Jordan who was supposed to help. (BC 5/6/98 GJ, p. 176; H.Doc. 105-316, p. 592)

On November 5, Ms. Lewinsky met for twenty minutes with Mr.

Jordan. (ML 8/6/98 GJ, p. 104; H.Doc. 105-311, p. 824) No action followed; no job interviews were arranged and there were no further contacts with Mr. Jordan. It was obvious that he made no effort to find a job for Ms. Lewinsky. Indeed, it was so unimportant to him that he "had no recollection of an early November meeting" (VJ 3/3/98 GJ, p. 50; H.Doc. 105-316, p. 1799) and that finding a job for Ms. Lewinsky was not a priority (VJ 5/5/98 GJ, p. 76; H.Doc. 105-316, p. 1804) (Chart R) Nothing happened throughout the month of November, because Mr. Jordan was either gone or would not return Monica's calls. (ML 8/6/98 GJ, p. 105-106; H.Doc. 105-311, pgs. 825-826)

During the December 6 meeting with the President, she mentioned that she had not been able to get in touch with Mr. Jordan and that it did not seem he had done anything to help her. The President responded by stating, "Oh, I'll talk to him. I'll get on it," or something to that effect. (ML 8/6/98 GJ, pgs. 115-116; H.Doc. 105-311, p. 836) There was obviously still no urgency to help Ms. Lewinsky. Mr. Jordan met the President the next day, December 7, but the meeting was unrelated to Ms. Lewinsky. (VJ 5/5/98 GJ, pgs. 83, 116; H.Doc. 105-316, pgs. 1805, 1810)

THE DECEMBER 11, 1997 ACTIVITY

The first activity calculated to help Ms. Lewinsky actually procure employment took place on December 11. Mr. Jordan met with Ms. Lewinsky and gave her a list of contact names. The two

also discussed the President. (ML 8/6/98 GJ, pgs. 119, 120; H.Doc. 105-311, pgs. 839-840) That meeting Mr. Jordan

remembered. (VJ 3/5/98 GJ, p. 41; H.Doc. 105-316, p. 1798) Vernon Jordan immediately placed calls to two prospective employers. (VJ 3/3/98 GJ, pgs. 54, 62-63; H.Doc. 105-316, pgs. 1800-1802) Later in the afternoon, he even called the President to give him a report on his job search efforts. (VJ 3/3/98 GJ, pgs. 64-66; H.Doc. 105-316, p. 1802) Clearly, Mr. Jordan and the President were now very interested in helping Monica find a good job in New York. (VJ 5/5/98 GJ, p. 95; H.Doc. 105-316, p. 1807)

SIGNIFICANCE OF DECEMBER 11, 1997

This sudden interest was inspired by a court order entered on December 11, 1997. On that date, Judge Susan Webber Wright ordered that Paula Jones was entitled to information regarding any state or federal employee with whom the President had sexual relations, proposed sexual relations, or sought to have sexual relations.

The President knew that it would be politically and legally expedient to maintain an amicable relationship with Monica Lewinsky. And the President knew that that relationship would be fostered by finding Ms. Lewinsky a job. This was accomplished through enlisting the help of Vernon Jordan.

December 17, 1997

MS. LEWINSKY LEARNS OF WITNESS LIST

On December 17, 1997, between 2:00 and 2:30 in the morning, Monica Lewinsky's phone rang unexpectedly. It was the President of the United States. The President said that he wanted to tell Ms. Lewinsky two things: one was that Betty Currie's brother had been killed in a car accident; secondly, the President said that he "had some more bad news," that he had seen the witness list for the Paula Jones case and her name was on it. (ML 8/6/98 GJ, p. 123; H.Doc. 105-311, p. 843) The President told Ms. Lewinsky that seeing her name on the list "broke his heart." He then told her that "if [she] were to be subpoenaed, [she] should contact Betty and let Betty know that [she] had received the subpoena." (Id.) Ms. Lewinsky asked what she should do if subpoenaed. The President responded: "Well, maybe you can sign an affidavit." (Id.) Both parties knew that the Affidavit would need to be false and misleading to accomplish the desired result.

THE PRESIDENT'S "SUGGESTION"

Then, the President had a very pointed suggestion for Monica Lewinsky, a suggestion that left little room for compromise. He did not specifically tell her to lie. What he did say is "you know, you can always say you were coming to see Betty or that you were bringing me letters." (ML 8/6/98 GJ, p. 123; H.Doc. 105-311, p. 843)

In order to understand the significance of this statement,

it is necessary to recall the "cover stories" that the President and Ms. Lewinsky had previously structured in order to deceive those who protected and worked with the President.

Ms. Lewinsky said she would carry papers when she visited the President. When she saw him, she would say: "Oh, gee, 'here are your letters,' wink, wink, wink and he would answer, 'Okay that's good.'" (ML 8/6/98 GJ, p. 54; H.Doc. 105-311, p. 774) After Ms. Lewinsky left White House employment, she would return to the Oval Office under the guise of visiting Betty Currie, not the President. (ML 8/6/98 GJ, p. 55; H.Doc. 105-311, p. 775)

Moreover, Ms. Lewinsky promised the President that she would always deny the sexual relationship and always protect him. The President would respond "that's good" or similar language of encouragement. (ML 8/20/98 GJ, p. 22; H.Doc. 105-311, p. 1078)

So, when the President called Ms. Lewinsky at 2:00 a.m. on December 17 to tell her she was on the witness list, he made sure to remind her of those prior "cover stories." Ms. Lewinsky testified that when the President brought up the misleading stories, she understood that the two would continue their pre-existing pattern of deception.

THE PRESIDENT'S INTENTION

It became clear that the President had no intention of making his sexual relationship with Monica Lewinsky a public affair. And he would use lies, deceit, and deception to ensure

that the truth would not be known.

It is interesting to note that when the grand jury asked the President whether he remembered calling Monica Lewinsky at 2:00 a.m., he responded: "No sir, I don't. But it would ... it is quite possible that that happened. . ." (WJC 8/17/98 GJ, p. 115; H.Doc. 105-311, p. 567)

And when he was asked whether he encouraged Monica Lewinsky to continue the cover stories of "coming to see Betty" or "bringing the letters," he answered: "I don't remember exactly what I told her that night." (WJC 8/17/98 GJ, p. 117; H.Doc. 105-311, p. 565)

Six days earlier, he had become aware that Paula Jones' lawyers were now able to inquire about other women. Ms. Lewinsky could file a false affidavit, but it might not work. It was absolutely essential that both parties told the same story. He knew that he would lie if asked about Ms. Lewinsky, and he wanted to make certain that she would lie also. That is why the President of the United States called a twenty-four year old woman at 2:00 in the morning.

THE EVIDENCE MOUNTS

But the President had an additional problem. It was not enough that he (and Ms. Lewinsky) simply deny the relationship. The evidence was beginning to accumulate. Because of the emerging evidence, the President found it necessary to re-

evaluate his defense. By this time, the evidence was establishing, through records and eyewitness accounts, that the President and Monica Lewinsky were spending a significant amount of time together in the Oval Office complex. It was no longer expedient simply to refer to Ms. Lewinsky as a "groupie", "stalker", "clutch", or "home wrecker" as the White House first attempted to do. The unassailable facts were forcing the President to acknowledge some type of relationship. But at this point, he still had the opportunity to establish a non-sexual explanation for their meetings, since his DNA had not yet been identified on Monica Lewinsky's blue dress.

NEED FOR THE COVER STORY

Therefore, the President needed Monica Lewinsky to go along with the cover story in order to provide an innocent, intimate-free explanation for their frequent meetings. And that innocent explanation came in the form of "document deliveries" and "friendly chats with Betty Currie."

Significantly, when the President was deposed on January 17, 1998, he used the exact same cover stories that had been utilized by Ms. Lewinsky. In doing so, he stayed consistent with any future Lewinsky testimony while still maintaining his defense in the Jones lawsuit.

In the President's deposition, he was asked whether he was ever alone with Monica Lewinsky. He responded: "I don't recall."

. . . She - it seems to me she brought things to me once or twice on the weekends. In that case, whatever time she would be in there, drop it off, exchange a few words and go, she was there." (WJC 1/17/98 Dep., p. 52-53)

Additionally, when questions were posed regarding Ms. Lewinsky's frequent visits to the Oval Office, the President did not hesitate to mention Betty Currie in his answers, for example:

And my recollection is that on a couple of occasions after [the pizza party meeting], she was there [in the oval office] but my secretary, Betty Currie, was there with her. (WJC 1/17/98 Dep., p. 58)

- Q. When was the last time you spoke with Monica Lewinsky?
- A. I'm trying to remember. Probably sometime before Christmas. She came by to see Betty sometime before Christmas. And she was there talking to her, and I stuck my head out, said hello to her. (WJC 1/17/98 Dep., p. 68)

December 19, 1997

MS. LEWINSKY IS SUBPOENAED

On December 19, 1997, Ms. Lewinsky was subpoenaed to testify in a deposition scheduled for January 23, 1998 in the Jones case. (ML 8/6/98 GJ, p. 128; H.Doc. 105-311, p. 848) (Charts F and G) Extremely distraught, she immediately called the President's closest friend, Vernon Jordan. As noted Ms. Lewinsky testified that the President previously told her to call Betty Currie if she was subpoenaed. She called Mr. Jordan instead because Ms. Currie's brother recently died and she did

not want to bother her. (ML 8/6/98 GJ, pgs. 128-129; H.Doc. 105-311, pgs. 848, 849)

VERNON JORDAN'S ROLE

Mr. Jordan invited Ms. Lewinsky to his office and she arrived shortly before 5 p.m., still extremely distraught. Around this time, Mr. Jordan called the President and told him Ms. Lewinsky had been subpoenaed. (VJ 5/5/98 GJ, p. 145; H.Doc. 105-316, p. 1815) (Exhibit 1) During the meeting with Ms. Lewinsky, which Mr. Jordan characterized as "disturbing" (VJ 3/3/98 GJ, p. 100; H.Doc. 105-316, p. 1716), she talked about her infatuation with the President. (VJ 3/3/98 GJ, p. 150; H.Doc. 105-316, p. 1724) Mr. Jordan decided that he would call a lawyer for her. (VJ 3/3/98 GJ, p. 161; H.Doc. 105-316, p. 1726)

MR. JORDAN INFORMS THE PRESIDENT

That evening, Mr. Jordan met with the President and relayed his conversation with Ms. Lewinsky. The details are extremely important because the President, in his deposition, did not recall that meeting. Mr. Jordan told the President again that Ms. Lewinsky had been subpoenaed, that he was concerned about her fascination with the President, and that Ms. Lewinsky had asked Mr. Jordan if he thought the President would leave the First Lady. He also asked the President if he had sexual relations with Ms. Lewinsky. (VJ 3/3/98 GJ, p. 169; H.Doc 105-3316, p. 1727) The President was asked at his deposition:

Q. Did anyone other than your attorneys ever tell you that Monica Lewinsky had been served with a subpoena in this case?

A. I don't think so.

Q. Did you ever talk with Monica Lewinsky about the possibility that she might be asked to testify in this case?

A. Bruce Lindsey, I think Bruce Lindsey told me that she was, I think maybe that's the first person told me she was. I want to be as accurate as I can.

(WJC 1/17/98 Dep., pgs. 68-69)

In the grand jury, the President first repeated his denial that Mr. Jordan told him Ms. Lewinsky had been subpoenaed. (WJC 8/17/98 GJ, p. 39; H.Doc. 105-311, p. 491) Then, when given more specific facts, he admitted that he "knows now" that he spoke with Mr. Jordan about the subpoena on the night of December 19, but his "memory is not clear...." (WJC 8/17/98 GJ, pgs. 41-42; H.Doc. 105-311, p. 493-494) In an attempt to explain away his false deposition testimony, the President testified in the grand jury that he was trying to remember who told him first. (WJC 8/17/98 GJ, p. 41; H.Doc. 105-311, pgs. 492-493) But that was not the question. So his answer was false and misleading. When one considers the nature of the conversation between the President and Mr. Jordan, the suggestion that it would be forgotten defies common sense.

December 28, 1997

December 28, 1997 is a crucial date, because the evidence shows that the President made false and misleading statements to the federal court, the federal grand jury and the Congress of the United States about the events on that date. (Chart J) It is also a date on which he obstructed justice.

THE PRESIDENT'S ACCOUNT

The President testified that it was "possible" that he invited Ms. Lewinsky to the White House for this visit. (WJC 8/17/98 GJ, p. 33; H.Doc. 105-311, p. 485) He admitted that he "probably" gave Ms. Lewinsky the most gifts he had ever given her on that date, (WJC 8/17/98 GJ, p. 35; H.Doc. 105-311, p. 487) and that he had given her gifts on other occasions. (WJC 8/6/98 GJ, p. 35) (Chart D) Among the many gifts the President gave Ms. Lewinsky on December 28 was a bear that he said was a symbol of strength. (ML 8/6/98 GJ, p. 176; H.Doc. 105-311, p. 896) Yet only two-and-a-half weeks later, the President forgot that he had given any gifts to Ms. Lewinsky.

As an attorney, the President knew that the law will not tolerate someone who says "I don't recall" when that answer is unreasonable under the circumstances. He also knew that, under those circumstances, his answer in the deposition could not be believed. When asked in the grand jury why he was unable to remember, even though he had given Ms. Lewinsky so many gifts

only two-and-a-half weeks before the deposition, the President put forth an obviously contrived explanation.

I think what I meant there was I don't recall what they were, not that I don't recall whether I had given them.

(WJC 8/17/98 GJ, p. 51; H.Doc. 105-311, p. 503)

RESPONSE TO COMMITTEE REQUESTS

The President adopted that same answer in Response No. 42 to the House Judiciary Committee's Requests For Admission. (Exhibit 18) He was not asked in the deposition to identify the gifts. He was simply asked, "Have you ever" given gifts to Ms. Lewinsky. The law does not allow a witness to insert unstated premises or mental reservations into the question to make his answer technically true, if factually false. The essence of lying is in deception, not in words.

The President's answer was false. The evidence also proves that his explanation to the grand jury and to the Committee is also false. The President would have us believe that he was able to analyze questions as they were being asked, and pick up such things as verb tense in an attempt to make his statements at least literally true. But when he was asked a simple, straightforward question, he did not understand it. Neither his answer in the deposition nor his attempted explanation is reasonable or true.

TESTIMONY CONCERNING GIFTS

The President was asked in the deposition if Monica Lewinsky ever gave him gifts. He responded, "once or twice." (WJC 1/17/98 Dep., p. 77) This is also false testimony calculated to obstruct justice. He answered this question in his Response to the House Judiciary Committee by saying that he receives numerous gifts, and he did not focus on the precise number. (Exhibit 18) The law again does not support the President's position. An answer that baldly understates a numerical fact in response to a specific quantitative inquiry can be deemed technically true but actually false. For example, a witness is testifying falsely if he says he went to the store five times when in fact he had gone fifty, even though technically he had also gone five times. So too, when the President answered once or twice in the face of evidence that Ms. Lewinsky was frequently bringing gifts, he was lying. (Chart C)

CONCEALMENT OF GIFTS

On December 28, one of the most blatant efforts to obstruct justice and conceal evidence occurred. Ms. Lewinsky testified that she discussed with the President the fact that she had been subpoenaed and that the subpoena called for her to produce gifts. She recalled telling the President that the subpoena requested a hat pin, and that caused her concern. (ML 8/6/98 GJ, pgs. 151-152; H.Doc. 105-311, pgs. 871-872) The President told her that

it "bothered" him, too. (ML 8/20/98 GJ, p. 66; H.Doc. 105-311, p. 1122) Ms. Lewinsky then suggested that she take the gifts somewhere, or give them to someone, maybe to Betty. The President answered: "I don't know" or "Let me think about that." (ML 8/6/98 GJ, pgs. 152-153; H.Doc. 105-311, pgs. 872-873) (Chart L) Later that day, Ms. Lewinsky got a call from Ms. Currie, who said: "I understand you have something to give me" or "the President said you have something to give me." (ML 8/6/98 GJ, pgs. 154-155; H.Doc. 105-311, pgs. 874-875) Ms. Currie has a fuzzy memory about this incident, but says that "the best she can remember," Ms Lewinsky called her. (Currie 5/6/98 GJ, p. 105; H.Doc. 105-316, p. 581)

THE CELL PHONE RECORD

There is key evidence that Ms. Currie's fuzzy recollection is wrong. Ms. Lewinsky said that she thought Ms. Currie called from her cell phone. (ML 8/6/98 GJ, pgs. 154-155) (Chart K, Exhibit 2) Ms. Currie's cell phone record corroborates Ms. Lewinsky and proves conclusively that Ms. Currie called Monica from her cell phone several hours after she had left the White House. Moreover, Ms. Currie herself later testified that Ms. Lewinsky's memory may be better than hers on this point. (BC 5/6/98 GJ, p. 126; H.Doc. 105-316, p. 584) The facts prove that the President directed Ms. Currie to pick up the gifts.

MS. CURRIE'S LATER ACTIONS

That conclusion is buttressed by Ms. Currie's actions. If Ms. Lewinsky had placed the call requesting a gift exchange, Ms. Currie would logically ask the reason for such a transfer. Ms. Lewinsky was giving her a box of gifts from the President yet she did not tell the President of this strange request. She simply took the gifts and placed them under her bed without asking a single question. (BC 1/27/98 GJ, pgs. 57-58; H.Doc. 105-316, p. 557; BC 5/6/98 GJ, pgs. 105-108, 114; H.Doc. 105-316, pgs. 581-582)

The President stated in his Response to questions No. 24 and 25 from the House Committee that he was not concerned about the gifts. (Exhibit 18) In fact, he said that he recalled telling Monica that if the Jones lawyers request gifts, she should turn them over. The President testified that he is "not sure" if he knew the subpoena asked for gifts. (WJC 8/17/98 GJ, pgs. 42-43; H.Doc. 105-311, pgs. 494-495) Would Monica Lewinsky and the President discuss turning over gifts to the Jones lawyers if Ms. Lewinsky had not told him that the subpoena asked for gifts? On the other hand, if he knew the subpoena requested gifts, why would he give Ms. Lewinsky more gifts on December 28? Ms. Lewinsky's testimony reveals the answer. She said that she never questioned "that we were ever going to do anything but keep this private" and that meant to take "whatever appropriate steps needed to be taken" to keep it quiet. (ML 8/6/98 GJ, pgs. 166;

H.Doc. 1055-311, p. 886) The only logical inference is that the gifts -- including the bear symbolizing strength -- were a tacit reminder to Ms. Lewinsky that they would deny the relationship -- even in the face of a federal subpoena.

THE PRESIDENT'S DEPOSITION TESTIMONY

Furthermore, the President, at various times in his deposition, seriously misrepresented the nature of his meeting with Ms. Lewinsky on December 28 in order to obstruct the administration of justice. First, he was asked: "Did she tell you she had been served with a subpoena in this case?" The President answered flatly: "No. I don't know if she had been." (WJC 1/17/98 Dep., p. 68)

He was also asked if he "ever talked to Monica Lewinsky about the possibility of her testifying." "I'm not sure...", he said. He then added that he may have joked to her that the Jones lawyers might subpoena every woman he has ever spoken to, and that "I don't think we ever had more of a conversation than that about it...." (WJC 1/17/98 Dep., p. 70) Not only does Monica Lewinsky directly contradict this testimony, but the President also directly contradicted himself before the grand jury. Speaking of his December 28, 1997 meeting, he said that he "knew by then, of course, that she had gotten a subpoena" and that they had a "conversation about the possibility of her testifying." (WJC 8/17/98 Dep., pgs. 35-36) Remember, he had this

conversation about her testimony only two-and-a-half weeks before his deposition. Again, his version is not reasonable.

January 5 - 9, 1998

MS. LEWINSKY SIGNS THE AFFIDAVIT AND GETS A JOB

The President knew that Monica Lewinsky was going to execute a false Affidavit. He was so certain of the content that when she asked if he wanted to see it, he told her no, that he had seen fifteen of them. (ML 8/2/98 Int., p. 3; H.Doc. 105-311, p. 1489) He got his information from discussions with Ms. Lewinsky and Vernon Jordan generally about the content of the Affidavit. Moreover, the President had suggested the Affidavit himself and he trusted Mr. Jordan to be certain the mission was accomplished.

ADDITIONAL PRESIDENTIAL ADVICE

In the afternoon of January 5, 1998, Ms. Lewinsky met with her lawyer, Mr. Carter, to discuss the Affidavit. (ML 8/6/98 GJ, p. 192; H.Doc. 105-311, p. 912) Her lawyer asked her some hard questions about how she got her job. (ML 8/6/98 GJ, p.195; H.Doc. 105-311, p. 915) After the meeting, she called Betty Currie and said that she wanted to speak to the President before she signed anything. (ML 8/6/98 GJ, p.195; H.Doc. 105-311, p. 915) Ms. Lewinsky and the President discussed the issue of how she would answer under oath if asked about how she got her job at the Pentagon. (ML 8/6/98 GJ, p. 197; H.Doc. 105-311, p. 917) The

President told her: "Well, you could always say that the people in Legislative Affairs got it for you or helped you get it." (ML 8/6/98 GJ, p.197; H.Doc. 105-311, p. 917) That, too, is false and misleading.

VERNON JORDAN'S NEW ROLE

The President was also kept advised as to the contents of the Affidavit by Vernon Jordan. (VJ 5/5/98 GJ, p. 224; H.Doc. 105-316, p. 1828) On January 6, 1998, Ms. Lewinsky picked up a draft of the Affidavit from Mr. Carter's office. (ML 8/6/98 GJ, p. 199; H.Doc. 105-311, p. 919) She delivered a copy to Mr. Jordan's office, (ML 8/6/98 GJ, p. 200; H.Doc. 105-311, p. 920) because she wanted Mr. Jordan to look at the Affidavit in the belief that if Vernon Jordan gave his imprimatur, the President would also approve. (ML 8/6/98 GJ, pgs. 194-195; H.Doc. 105-311, pgs. 914, 915) (Chart M) Ms. Lewinsky and Mr. Jordan conferred about the contents and agreed to delete a paragraph inserted by Mr. Carter which might open a line of questions concerning whether she had been alone with the President. (ML 8/6/98 GJ, p. 200; H.Doc. 105-311, p. 920) (Exhibit 3) Mr. Jordan maintained that he had nothing to do with the details of the Affidavit. (VJ 3/5/98 GJ, p. 12; H.Doc. 105-316, p. 1735) He admits, though, that he spoke with the President after conferring with Ms. Lewinsky about the changes made to her Affidavit. (VJ 5/5/98 GJ, p. 218; H.Doc. 105-316, p. 1827)

MS. LEWINSKY SIGNS THE FALSE AFFIDAVIT

The next day, January 7, Monica Lewinsky signed the false Affidavit. (ML 8/6/98 GJ, pgs. 204-205; H.Doc. 105-311, pgs. 924-925) (Chart N; Exhibit 12) She showed the executed copy to Mr. Jordan that same day. (VJ 5/5/98 GJ, p. 222; H.Doc. 105-316, p. 1828) (Exhibit 4) Mr. Jordan, in turn, notified the President that she signed an affidavit denying a sexual relationship. (VJ 3/5/98 GJ, p. 26; H.Doc. 105-316, p. 1739)

MS. LEWINSKY GETS THE JOB

On January 8, 1998, Mr. Jordan arranged an interview for Ms. Lewinsky with MacAndrews and Forbes in New York. (ML 8/6/98 GJ, p. 206; H.Doc. 105-311, p. 926) The interview went poorly, so Ms. Lewinsky called Mr. Jordan and informed him. (ML 8/6/98 GJ, p. 206; H.Doc. 105-311, p. 926) Mr. Jordan, who had done nothing to assist Ms. Lewinsky's job search from early November to mid December, then called MacAndrews and Forbes CEO, Ron Perelman, to "make things happen, if they could happen." (VJ 5/5/98 GJ, p. 231; H.Doc. 105-316, p. 1829) Mr. Jordan called Ms. Lewinsky back and told her not to worry. (ML 8/6/98 GJ, pgs. 208-209; H.Doc. 105-311, pgs. 928-929) That evening, Ms. Lewinsky was called by MacAndrews and Forbes and told that she would be given more interviews the next morning. (ML 8/6/98 GJ, p. 209; H.Doc. 105-311, p. 929)

After a series of interviews with MacAndrews and Forbes personnel, she was informally offered a job. (ML 8/6/98 GJ, p. 210; H.Doc. 105-311, p. 930) When Ms. Lewinsky called Mr. Jordan to tell him, he passed the good news on to Betty Currie stating, "Mission Accomplished." (VJ 5/28/98 GJ, p. 39; H.Doc. 105-316, p. 1898). Later, Mr. Jordan called the President and told him personally. (VJ 5/28/98 GJ, p. 41; H.Doc. 105-316, p. 1899) (Chart P)

THE REASON FOR MR. JORDAN'S UNIQUE BEHAVIOR

After Ms. Lewinsky had spent months looking for a job -- since July according to the President's lawyers -- Vernon Jordan made the critical call to a CEO the day after the false Affidavit was signed. Mr. Perelman testified that Mr. Jordan had never called him before about a job recommendation. (Perelman 4/23/98 Dep., p.11; H.Doc. 105-316, p. 3281) Mr. Jordan, on the other hand, said that he called Mr. Perelman to recommend for hiring: 1) former Mayor Dinkins of New York; 2) a very talented attorney from Akin Gump; 3) a Harvard business school graduate; and 4) Monica Lewinsky. (VJ 3/5/98 GJ, p. 58-59; H.Doc. 105-316, p. 1747) Even if Mr. Perelman's testimony is mistaken, Ms. Lewinsky's qualifications do not compare to those of the individuals previously recommended by Mr. Jordan.

Vernon Jordan was well aware that people with whom Ms. Lewinsky worked at the White House did not like her (VJ 3/3/98

GJ, pgs. 43, 59) and that she did not like her Pentagon job. (VJ 3/3/98 GJ, pgs. 43-44; H.Doc. 105-316, pgs 1706, 1707) Mr. Jordan was asked if at "any point during this process you wondered about her qualifications for employment?" He answered: "No, because that was not my judgment to make." (VJ 3/3/98 GJ, p. 44; H.Doc. 105-316, p. 1707) Yet, when he called Mr. Perelman the day after she signed the Affidavit, he referred to Ms. Lewinsky as a bright young girl who is "terrific." (Perelman 4/23/98 Dep., p. 10; H.Doc. 105-316, p. 3281) Mr. Jordan testified that she had been pressing him for a job and voicing unrealistic expectations concerning positions and salary. (VJ 3/5/98 GJ, pgs. 37-38; H.Doc. 105-316, p. 1742) Moreover, she narrated a disturbing story about the President leaving the First Lady, and how the President was not spending enough time with her. Yet, none of that gave Mr. Jordan pause in making the recommendation, especially after Monica was subpoenaed. (VJ 3/3/98 GJ, pgs. 156-157; H.Doc. 105-316, p. 1725)

THE IMPORTANCE OF THE FALSE AFFIDAVIT

Monica Lewinsky's false Affidavit enabled the President, through his attorneys, to assert at his January 17, 1998 deposition " . . . there is absolutely no sex of any kind in any manner, shape or form with President Clinton" (WJC, 1/17/98 Dep., p. 54) When questioned by his own attorney in the deposition, the President stated specifically that paragraph 8 of Ms. Lewinsky's Affidavit was "absolutely true." (WJC, 1/17/98

Dep., p. 204) The President later affirmed the truth of that statement when testifying before the grand jury. (WJC, 8/17/98 GJ, p. 20-21; H.Doc. 105-311, pg. 473) Paragraph 8 of Ms. Lewinsky's Affidavit states:

I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship.

Significantly, Ms. Lewinsky reviewed the draft Affidavit on January 6, and signed it on January 7 after deleting a reference to being alone with the President. She showed a copy of the signed Affidavit to Vernon Jordan, who called the President and told him that she had signed it. (VJ, 3/5/98 GJ, pgs. 24-26; H.Doc. 105-316, pgs. 1728, 1739; VJ, 5/5/98 GJ, p. 222; H.Doc. 105-316, p. 1828)

THE RUSH TO FILE THE AFFIDAVIT

For the affidavit to work for the President in precluding questions by the Jones attorneys concerning Ms. Lewinsky, it had to be filed with the Court and provided to the President's attorneys in time for his deposition on January 17. On January 14, the President's lawyers called Ms. Lewinsky's lawyer and left a message, presumably to find out if he had filed the Affidavit with the Court. (Carter 6/18/98 GJ, p. 123; H.Doc. 105-316, p. 423) (Chart O) On January 15, the President's attorneys called

her attorney twice. When they finally reached him, they requested a copy of the Affidavit and asked him, "Are we still on time?" (Carter 6/18/98 GJ, p. 123; H.Doc. 105-216, p. 423) Ms. Lewinsky's lawyer faxed a copy on the 15th. (Carter 6/18/98 GJ, p. 123; H.Doc. 105-316, p. 423) The President's counsel was aware of its contents and used it powerfully in the deposition.

Ms. Lewinsky's lawyer called the court in Arkansas twice on January 15 to ensure that the Affidavit could be filed on Saturday, January 17. (Carter 6/18/98 GJ, pgs. 124-125; H.Doc. 105-316, pgs. 423-424) (Exhibit 5) He finished the Motion to Quash Ms. Lewinsky's deposition in the early morning hours of January 16 and mailed it to the Court with the false Affidavit attached, for Saturday delivery. (Carter 6/18/98 GJ, p. 134; H.Doc. 105-316, p. 426) The President's lawyers left him another message on January 16, saying, "You'll know what it's about." (Carter 6/18/98 GJ, p. 135; H.Doc. 105-316, p. 426) Obviously, the President needed that Affidavit to be filed with the Court to support his plans to mislead Ms. Jones' attorneys in the deposition, and thereby obstruct justice.

THE NEWSWEEK INQUIRY

On January 15, Michael Isikoff of Newsweek called Betty Currie and asked her about Ms. Lewinsky sending gifts to her by courier. (BC 5/6/98 GJ, p. 123; H.Doc. 105-316, p. 584; ML 8/6/98 GJ, p. 228; H.Doc. 105-311, p. 948) Ms. Currie then called Ms.

Lewinsky and told her about it. (ML 8/6/98 GJ, p. 228-229; H.Doc. 105-311, pgs. 948-949) The President was out of town, so later, Betty Currie called Ms. Lewinsky back, and asked for a ride to Mr. Jordan's office. (ML 8/6/98 GJ, p. 229; H.Doc. 105-311, p. 949; Currie 5/6/98 GJ, p. 130-131; H.Doc. 105-316, p. 585) Mr. Jordan advised her to speak with Bruce Lindsey and Mike McCurry. (VJ 3/5/98 GJ, p. 71) Ms. Currie testified that she spoke immediately to Mr. Lindsey about Isikoff's call. (BC 5/6/98 GJ, p. 127; H.Doc. 105-316, p. 584)

JANUARY 17, 1998
DEPOSITION AFTERMATH

By the time the President concluded his deposition on January 17, he knew that someone was talking about his relationship with Ms. Lewinsky. He also knew that the only person who had personal knowledge was Ms. Lewinsky herself. The cover stories that he and Ms. Lewinsky created, and that he used himself during the deposition, were now in jeopardy. It became imperative that he not only contact Ms. Lewinsky, but that he obtain corroboration of his account of the relationship from his trusted secretary, Ms. Currie. At around 7 p.m. on the night of the deposition, the President called Ms. Currie and asked that she come in the following day, Sunday. (BC 7/22/98 GJ, p. 154-155; H.Doc. 105-316, p. 701) (Exhibit 6) Ms. Currie could not recall the President ever before calling her that late at home on a Saturday night. (BC 1/27/98 GJ, p. 69; H.Doc. 105-316, p. 559)

(Chart S) Sometime in the early morning hours of January 18, 1998, the President learned of a news report concerning Ms. Lewinsky released earlier that day. (WJC 8/17/98 GJ, p. 142-143; H.Doc. 105-311, pgs. 594-595) (Exhibit 14)

THE TAMPERING WITH THE WITNESS, BETTY CURRIE

As the charts indicate, between 11:49 a.m. and 2:55 p.m., there were three phone calls between Mr. Jordan and the President. (Exhibit 7) At about 5 p.m., Ms. Currie met with the President. (BC 1/27/98 GJ, p. 67; H.Doc. 105-316, p. 558) He told her that he had just been deposed and that the attorneys asked several questions about Monica Lewinsky. (BC 1/27/98 GJ, p. 69-70; H.Doc. 105-316, p. 559) He then made a series of statements to Ms. Currie: (Chart T)

- (1) I was never really alone with Monica, right?
- (2) You were always there when Monica was there, right?
- (3) Monica came on to me, and I never touched her, right?
- (4) You could see and hear everything, right?
- (5) She wanted to have sex with me, and I cannot do that.

(BC 1/27/98 GJ, pgs. 70-75; H.Doc. 105-316, pgs. 559-560; BC 7/22/98 GJ, pgs. 6-7; H.Doc. 105-316, p. 664)

During Betty Currie's grand jury testimony, she was asked

whether she believed that the President wished her to agree with the statements:

Q. Would it be fair to say, then - based on the way he stated [these five points] and the demeanor that he was using at the time that he stated it to you - that he wished you to agree with that statement?

A. I can't speak for him, but -

Q. How did you take it? Because you told us at these [previous] meetings in the last several days that that is how you took it.

A. (Nodding)

Q. And you're nodding you head, "yes", is that correct?

A. That's correct.

Q. Okay, with regard to the statement that the President made to you, "You remember I was never really alone with Monica, right?" Was that also a statement that, as far as you took, that he wished you to agree with that?

A. Correct.

(BC 1/27/98 GJ, p. 74; H.Doc. 105-316, 559)

Though Ms. Currie would later intimate that she did not necessarily feel pressured by the President, she did state that she felt the President was seeking her agreement (or disagreement) with those statements. (BC 7/22/98 GJ, p. 27;

H.Doc. 105-316, p. 669)

WAS THIS OBSTRUCTION OF JUSTICE?

The President essentially admitted to making these statements when he knew they were not true. Consequently, he had painted himself into a legal corner. Understanding the seriousness of the President "coaching" Ms. Currie, the argument has been made that those statements to her could not constitute obstruction because she had not been subpoenaed, and the President did not know that she was a potential witness at the time. This argument is refuted by both the law and the facts.

The United States Court of Appeals rejected this argument, and stated,

"[A] person may be convicted of obstructing justice if he urges or persuades a prospective witness to give false testimony. Neither must the target be scheduled to testify at the time of the offense, nor must he or she actually give testimony at a later time."

United States v. Shannon, 836 F.2d 1125, 1128 (8th Cir. 1988) (citing, e.g., United States v. Friedland, 660 F.2d 919, 931 (3rd Cir. 1981)).

Of course Ms. Currie was a prospective witness, and the President clearly wanted her to be deposed to corroborate him, as his testimony demonstrates. The President claims that he called Ms. Currie into work on a Sunday night only to find out what she knew. But the President knew the truth about his relationship

with Ms. Lewinsky, and if he had told the truth during his deposition the day before, then he would have no reason to worry about what Ms. Currie knew. More importantly, the President's demeanor, Ms. Currie's reaction to his demeanor, and the blatant lies that he suggested clearly prove that the President was not merely interviewing Ms. Currie. Rather, he was looking for corroboration for his false cover-up, and that is why he coached her.

JANUARY 18**THE SEARCH FOR MS. LEWINSKY**

Very soon after his Sunday meeting with Ms. Currie, at 5:12 p.m., the flurry of telephone calls in search of Monica Lewinsky began. (Chart S) Between 5:12 p.m. and 8:28 p.m., Ms. Currie paged Ms. Lewinsky four times. "Kay" is a reference to a code name Ms. Lewinsky and Ms. Currie agreed to when contacting one another. (ML 8/6/98 GJ, p. 216; H.Doc., 105-311, pg. 936) At 11:02 p.m., the President called Ms. Currie at home to ask if she had reached Lewinsky. (BC 7/22/98 GJ, p. 160; H.Doc. 105-316, p. 702)

JANUARY 19**THE SEARCH CONTINUES**

The following morning, January 19, Ms. Currie continued to work diligently on behalf of the President. Between 7:02 a.m. and 8:41 a.m., she paged Ms. Lewinsky another five times. (Chart

S) (Exhibit 8) After the 8:41 page, Ms. Currie called the President at 8:43 a.m. and said that she was unable to reach Ms. Lewinsky. (BC 7/22/98 GJ, pgs. 161-162; H.Doc. 105-316, p. 703) One minute later, at 8:44 a.m., she again paged Ms. Lewinsky. This time Ms. Currie's page stated "Family Emergency," apparently in an attempt to alarm Ms. Lewinsky into calling back. That may have been the President's idea, since Ms. Currie had just spoken with him. The President was obviously quite concerned because he called Betty Currie only six minutes later, at 8:50 a.m. Immediately thereafter, at 8:51 a.m., Ms. Currie tried a different tact, sending the message: "Good news." Again, perhaps at the President's suggestion. If bad news does not get her to call, try good news. Ms. Currie said that she was trying to encourage Ms. Lewinsky to call, but there was no sense of "urgency." (BC 7/22/98 GJ, p. 165; H.Doc. 105-316, p. 704) Ms. Currie's recollection of why she was calling was again fuzzy. She said at one point that she believes the President asked her to call Ms. Lewinsky, and she thought she was calling just to tell her that her name came up in the deposition. (BC 7/22/98 GJ, p. 162; H.Doc. 105-316, p. 703) Monica Lewinsky had been subpoenaed; of course her name came up in the deposition. There was obviously another and more important reason the President needed to get in touch with her.

MR. JORDAN AND MS. LEWINSKY'S LAWYERS JOIN THE SEARCH

At 8:56 a.m., the President telephoned Vernon Jordan, who then joined in the activity. Over a course of twenty-four minutes, from 10:29 to 10:53 a.m., Mr. Jordan called the White House three times, paged Ms. Lewinsky, and called Ms. Lewinsky's attorney, Frank Carter. Between 10:53 a.m. and 4:54 p.m., there are continued calls between Mr. Jordan, Ms. Lewinsky's attorney and individuals at the White House.

MS. LEWINSKY REPLACES HER LAWYER

Later that afternoon, at 4:54 p.m., Mr. Jordan called Mr. Carter. Mr. Carter relayed that he had been told he no longer represented Ms. Lewinsky. (VJ 3/5/98 GJ, p. 141; H.Doc. 105-316, p. 1771) Mr. Jordan then made feverish attempts to reach the President or someone at the White House to tell them the bad news, as represented by the six calls between 4:58 p.m. and 5:22 p.m. Vernon Jordan said that he tried to relay this information to the White House because "[t]he President asked me to get Monica Lewinsky a job," and he thought it was "information that they ought to have." (VJ 6/9/98 GJ, pgs. 45-46; H.Doc. 105-316, p. 1968) (Chart Q) Mr. Jordan then called Mr. Carter back at 5:14 p.m. to go over what they had already talked about. (VJ 3/5/98 GJ, p. 146; H.Doc. 105-316, p. 1772) Mr. Jordan finally reached the President at 5:56 p.m. and told him that Mr. Carter had been fired. (VJ 6/9/98 GJ, p. 54; H.Doc. 105-316, p. 1970)

THE REASON FOR THE URGENT SEARCH

This activity shows how important it was for the President of the United States to find Monica Lewinsky to learn to whom she was talking. Betty Currie was in charge of contacting Ms. Lewinsky. The President had just completed a deposition in which he provided false and misleading testimony about his relationship with Ms. Lewinsky. She was a co-conspirator in hiding this relationship from the Jones attorneys, and he was losing control over her. The President never got complete control over her again.

**ARTICLE I
FALSE AND MISLEADING STATEMENTS
TO THE GRAND JURY**

Article I addresses the President's perjurious, false, and misleading testimony to the grand jury. Four categories of false grand jury testimony are listed in the Article. Some salient examples of false statements are described below. When judging the statements made and the answers given, it is vital to recall that the President spent literally days preparing his testimony with his lawyer. He and his attorney were fully aware that the testimony would center around his relationship with Ms. Lewinsky and his deposition testimony in the Jones case.

GRAND JURY TESTIMONY

On August 17, after six invitations, the President of the United States appeared before a grand jury of his fellow citizens and took an oath to tell the complete truth. The President

proceeded to equivocate and engage in legalistic fencing; he also lied. The entire testimony was calculated to mislead and deceive the grand jury and to obstruct its process, and eventually to deceive the American people. He set the tone at the very beginning. In the grand jury a witness can tell the truth, lie or assert his privileges against self incrimination. (Chart Y) President Clinton was given a fourth choice. The President was permitted to read a statement. (Chart Z; WJC 8/17/98 GJ, pgs. 8-9)

THE PRESIDENT'S PREPARED STATEMENT

That statement itself is demonstrably false in many particulars. President Clinton claims that he engaged in inappropriate conduct with Ms. Lewinsky "on certain occasions in early 1996 and once in 1997." Notice he did not mention 1995. There was a reason. On three "occasions" in 1995, Ms. Lewinsky said she engaged in sexual contact with the President. Ms. Lewinsky was a twenty-one year old intern at the time.

The President unlawfully attempted to conceal his three visits alone with Ms. Lewinsky in 1995 during which they engaged in sexual conduct. (ML 8/6/98 GJ, pgs. 27-28; H.Doc. 105-311, pgs. 747-748; ML 8/6/98 GJ, Ex. 7; H.Doc. 105-311, p. 1251; Chart A) Under Judge Wright's ruling, this evidence was relevant and material to Paula Jones' sexual harassment claims. (Order, Judge Susan Webber Wright, December 11, 1997, p. 3)

The President specifically and unequivocally states, "[The encounters] did not constitute sexual relations as I understood that term to be defined at my January 17, 1998 deposition." That assertion is patently false. It is directly contradicted by the corroborated testimony of Monica Lewinsky. (See eg: ML 8/20/98 GJ, pgs. 31-32; H.Doc. 311, p. 1174; ML 8/26/98 Dep., p. 25, 30; H.Doc. 311, pgs. 1357, 1358)

Evidence indicates that the President and Ms. Lewinsky engaged in "sexual relations" as the President understood the term to be defined at his deposition and as any reasonable person would have understood the term to have been defined.

Contrary to his statement under oath, the President's conduct during the 1995 visits and numerous additional visits did constitute "sexual relations" as he understood the term to be defined at his deposition. Before the grand jury, the President admitted that directly touching or kissing another person's breast, or directly touching another person's genitalia with the intent to arouse, would be "sexual relations" as the term was defined. (WJC 8/17/98 GJ, pgs. 94-95; H.Doc 105-311, pgs. 546-547) However, the President maintained that he did not engage in such conduct. (*Id.*) These statements are contradicted by Ms. Lewinsky's testimony and the testimony of numerous individuals with whom she contemporaneously shared the details of her encounters with the President. Moreover, the theory that Ms.

Lewinsky repeated and unilaterally performed acts on the President while he tailored his conduct to fit a contorted definition of "sexual relations" which he had not contemplated at the time of the acts, defies common sense.

Moreover, the President had not even formed the contorted interpretation of "sexual relations" which he asserted in the grand jury until after his deposition had concluded. This is demonstrated by the substantial evidence revealing the President's state of mind during his deposition testimony. First, the President continuously denied at his deposition any fact that would cause the Jones lawyers to believe that he and Ms. Lewinsky had any type of improper relationship, including a denial that they had a sexual affair, (WJC 1/17/98 Dep., p. 78) not recalling if they were ever alone, (WJC 1/17/98 Dep., pgs. 52-53, 59) and not recalling whether Ms. Lewinsky had ever given him gifts. (WJC 1/17/98 Dep., pg. 75) Second, the President testified that Ms. Lewinsky's affidavit denying a sexual relationship was "absolutely true" when, even by his current reading of the definition, it is absolutely false. (WJC 1/17/98 Dep., p. 204) Third, the White House produced a document entitled "January 24, 1998 Talking Points," stating flatly that the President's definition of "sexual relations" included oral sex. (Chart W) Fourth, the President made statements to staff members soon after the deposition, saying that he did not have

to the White House because "[t]he President asked me to get Monica Lewinsky a job," and he thought it was "information that they ought to have." (VJ 6/9/98 GJ, pgs. 45-46; H.Doc. 105-316, p. 1968) (Chart Q) Mr. Jordan then called Mr. Carter back at 5:14 p.m. to go over what they had already talked about. (VJ 3/5/98 GJ, p. 146; H.Doc. 105-316, p. 1772) Mr. Jordan finally reached the President at 5:56 p.m. and told him that Mr. Carter had been fired. (VJ 6/9/98 GJ, p. 54; H.Doc. 105-316, p. 1970)

THE REASON FOR THE URGENT SEARCH

This activity shows how important it was for the President of the United States to find Monica Lewinsky to learn to whom she was talking. Betty Currie was in charge of contacting Ms. Lewinsky. The President had just completed a deposition in which he provided false and misleading testimony about his relationship with Ms. Lewinsky. She was a co-conspirator in hiding this relationship from the Jones attorneys, and he was losing control over her. The President never got complete control over her again.

**ARTICLE I
FALSE AND MISLEADING STATEMENTS
TO THE GRAND JURY**

Article I addresses the President's perjurious, false, and misleading testimony to the grand jury. Four categories of false

grand jury testimony are listed in the Article. Some salient examples of false statements are described below. When judging the statements made and the answers given, it is vital to recall that the President spent literally days preparing his testimony with his lawyer. He and his attorney were fully aware that the testimony would center around his relationship with Ms. Lewinsky and his deposition testimony in the Jones case.

GRAND JURY TESTIMONY

On August 17, after six invitations, the President of the United States appeared before a grand jury of his fellow citizens and took an oath to tell the complete truth. The President proceeded to equivocate and engage in legalistic fencing; he also lied. The entire testimony was calculated to mislead and deceive the grand jury and to obstruct its process, and eventually to deceive the American people. He set the tone at the very beginning. In the grand jury a witness can tell the truth, lie or assert his privileges against self incrimination. (Chart Y) President Clinton was given a fourth choice. The President was permitted to read a statement. (Chart Z; WJC 8/17/98 GJ, pgs. 8-9)

THE PRESIDENT'S PREPARED STATEMENT

That statement itself is demonstrably false in many

particulars. President Clinton claims that he engaged in inappropriate conduct with Ms. Lewinsky "on certain occasions in early 1996 and once in 1997." Notice he did not mention 1995. There was a reason. On three "occasions" in 1995, Ms. Lewinsky said she engaged in sexual contact with the President. Ms. Lewinsky was a twenty-one year old intern at the time.

The President unlawfully attempted to conceal his three visits alone with Ms. Lewinsky in 1995 during which they engaged in sexual conduct. (ML 8/6/98 GJ, pgs. 27-28; H.Doc. 105-311, pgs. 747-748; ML 8/6/98 GJ, Ex. 7; H.Doc. 105-311, p. 1251; Chart A) Under Judge Wright's ruling, this evidence was relevant and material to Paula Jones' sexual harassment claims. (Order, Judge Susan Webber Wright, December 11, 1997, p. 3)

The President specifically and unequivocally states, "[The encounters] did not constitute sexual relations as I understood that term to be defined at my January 17, 1998 deposition." That assertion is patently false. It is directly contradicted by the corroborated testimony of Monica Lewinsky. (See eg: ML 8/20/98 GJ, pgs. 31-32; H.Doc. 311, p. 1174; ML 8/26/98 Dep., p. 25, 30; H.Doc. 311, pgs. 1357, 1358)

Evidence indicates that the President and Ms. Lewinsky engaged in "sexual relations" as the President understood the

term to be defined at his deposition and as any reasonable person would have understood the term to have been defined.

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demonstrated by the substantial evidence revealing the President's state of mind during his deposition testimony. First, the President continuously denied at his deposition any fact that would cause the Jones lawyers to believe that he and Ms. Lewinsky had any type of improper relationship, including a denial that they had a sexual affair, (WJC 1/17/98 Dep., p. 78) not recalling if they were ever alone, (WJC 1/17/98 Dep., pgs. 52-53, 59) and not recalling whether Ms. Lewinsky had ever given him gifts. (WJC 1/17/98 Dep., pg. 75) Second, the President testified that Ms. Lewinsky's affidavit denying a sexual relationship was "absolutely true" when, even by his current reading of the definition, it is absolutely false. (WJC 1/17/98 Dep., p. 204) Third, the White House produced a document entitled "January 24, 1998 Talking Points," stating flatly that the President's definition of "sexual relations" included oral sex. (Chart W) Fourth, the President made statements to staff members soon after the deposition, saying that he did not have sexual relations, including oral sex, with Mr. Lewinsky, (Podesta 6/16/98 GJ, pg. 92; H.Doc. 105-316, p. 3311) and that she threatened to tell people she and the President had an affair when he rebuffed her sexual advances. (Blumenthal 6/4/98 GJ, p. 59; H.Doc. 105-316, p. 185) Fifth, President Clinton's Answer

filed in Federal District Court in response to Paula Jones' First Amended Complaint states unequivocally that "President Clinton denies that he engaged in any improper conduct with respect to plaintiff or any other woman." (Answer of Defendant William Jefferson Clinton, December 17, 1997, p. 8, para. 39) Sixth, in President Clinton's sworn Answers to Interrogatories Numbers 10 and 11, as amended, he flatly denied that he had sexual relations with any federal employee. The President filed this Answer prior to his deposition. Finally, as described below, the President sat silently while his attorney, referring to Ms. Lewinsky's affidavit, represented to the court that there was no sex of any kind or in any manner between the President and Ms. Lewinsky. (WJC 1/17/98 Dep., pg. 54)

This circumstantial evidence reveals the President's state of mind at the time of the deposition: his concern was not in technically or legally accurate answers, but in categorically denying anything improper. His grand jury testimony about his state of mind during the deposition is false.

REASONS FOR THE FALSE TESTIMONY

The President did not lie to the grand jury to protect himself from embarrassment, as he could no longer deny the affair. Before his grand jury testimony, the President's semen

had been identified by laboratory test on Ms. Lewinsky's dress, and during his testimony, he admitted an "inappropriate intimate relationship" with Ms. Lewinsky. In fact, when he testified before the grand jury, he was only hours away from admitting the affair on national television. Embarrassment was inevitable. But, if he truthfully admitted the details of his encounters with Ms. Lewinsky to the grand jury, he would be acknowledging that he lied under oath during his deposition when he claimed that he did not engage in sexual relations with Ms. Lewinsky. (WJC 1/17/98 Dep., pgs. 78, 109, 204) Instead, he chose to lie, not to protect his family or the dignity of his office, but to protect himself from criminal liability for his perjury in the Jones case.

ADDITIONAL FALSITY IN THE PREPARED STATEMENT

The President's statement continued, "I regret that what began as a friendship came to include this conduct[.]" (WJC 8/17/98 GJ, p. 9; H.Doc. 105-311, p. 461) The truth is much more troubling. As Ms. Lewinsky testified, her relationship with the President began with flirting, including Ms. Lewinsky showing the President her underwear. (ML 7/30/98 Int., p. 5; H.Doc. 105-311, p. 1431) As Ms. Lewinsky candidly admitted, she was surprised that the President remembered her name after their first two

sexual encounters. (ML 8/26/98 Dep., p. 25; H.Doc. 105-311, p. 1295)

REASON FOR THE FALSITY

The President's prepared statement, fraught with untruths, was not an answer the President delivered extemporaneously to a particular question. It was carefully drafted testimony which the President read and relied upon throughout his deposition. The President attempted to use the statement to foreclose questioning on an incriminating topic on nineteen separate occasions. Yet, this prepared testimony, which along with other testimony provides the basis for Article I, Item 1, actually contradicts his sworn deposition testimony.

CONTRARY DEPOSITION TESTIMONY

In this statement, the President admits that he and Ms. Lewinsky were alone on a number of occasions. He refused to make this admission in his deposition in the Jones case. During the deposition, the following exchange occurred:

- Q Mr. President, before the break, we were talking about Monica Lewinsky. At any time were you and Monica Lewinsky together alone in the Oval Office?
- A I don't recall, but as I said, when she worked in the legislative affairs office, they always had somebody

there on the weekends. I typically work some on the weekends. Sometimes they'd bring me things on the weekends. She - it seems to me she brought things to me once or twice on the weekends. In that case, whatever time she would be in there, drop if off, exchange a few words and go, she was there. I don't have any specific recollections of what the issues were, what was going on, but when the Congress is there, we're working all the time, and typically I would do some work on One of the days of the weekends in the afternoon.

Q So I understand, your testimony is that it was possible, then, that you were alone with her, but you have no specific recollection of that ever happening?

A Yes, that's correct. It's possible that she, in, while she was working there, brought something to me and that at the time she brought it to me, she was the only person there. That's possible.

(WJC 1/17/98 Dep., pgs. 52-53)

After telling this verbose lie under oath, the President was given an opportunity to correct himself. This exchange followed:

Q At any time have you and Monica Lewinsky ever been alone together in any room in the White House?

A I think I testified to that earlier. I think that there is a, it is - I have no specific recollection, but it seems to me that she was on duty on a couple of occasions working for

the legislative affairs office and brought me some things to sign, something on the weekend. That's - I have a general memory of that.

Q Do you remember anything that was said in any of those meetings?

A No. You know, we just had conversation, I don't remember.

(WJC 1/17/98 Dep., pgs. 52-53)

Before the grand jury, the President maintained that he testified truthfully at his deposition, a lie which provides, in part, the basis for Article I, Item 2. He stated, "My goal in this deposition was to be truthful, but not particularly helpful ... I was determined to walk through the mind field of this deposition without violating the law, and I believe I did." (WJC 8/17/98 GJ, p. 80; H.Doc. 105-311, p. 532) But contrary to his deposition testimony, he certainly was alone with Ms. Lewinsky when she was not delivering papers, as the President conceded in his prepared grand jury statement.

In other words, the President's assertion before the grand jury that he was alone with Ms. Lewinsky, but that he testified truthfully in his deposition, is inconsistent. Yet, to this day, both the President and his attorneys have insisted that he did not lie at his deposition and that he did not lie when he swore

under oath that he did not lie at his deposition.

In addition to his lie about not recalling being alone with Ms. Lewinsky, the President told numerous other lies at his deposition. All of those lies are incorporated in Article I, Item 2.

TESTIMONY CONCERNING THE FALSE AFFIDAVIT

Article I, Item 3 charges the President with providing perjurious, false and misleading testimony before a federal grand jury concerning false and misleading statements his attorney Robert Bennett made to Judge Wright at the President's deposition. In one statement, while objecting to questions regarding Ms. Lewinsky, Mr. Bennett misled the Court, perhaps knowingly, stating, "Counsel [for Ms. Jones] is fully aware that Ms. Lewinsky has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind in any manner, shape or form, with President Clinton[.]" (WJC 1/17/98 Dep., pgs. 53-54) When Judge Wright interrupted Mr. Bennett and expressed her concern that he might be coaching the President, Mr. Bennett responded, "In preparation of the witness for this deposition, the witness is fully aware of Ms. Lewinsky's affidavit, so I have not told him a single thing he doesn't know[.]" (WJC 1/17/98 Dep., p. 54) (Emphasis added)

When asked before the grand jury about his statement to Judge Wright, the President testified, "I'm not even sure I paid attention to what he was saying." (WJC 8/17/98 GJ, p. 24; H.Doc. 105-3131, p. 476) He added, "I didn't pay much attention to this conversation, which is why, when you started asking be about this, I asked to see the deposition." (WJC 8/17/98 GJ, p. 24;; H.Doc. 105-311, p. 477) Finally, "I don't believe I ever even focused on what Mr. Bennett said in the exact words he did until I started reading this transcript carefully for this hearing. That moment, the whole argument just passed my by." (WJC 8/17/98 GJ, p. 29; H.Doc. 105-311, p. 481)

This grand jury testimony defies common sense. During his deposition testimony, the President admittedly misled Ms. Jones' attorneys about his affair with Ms. Lewinsky, which continued while Ms. Jones' lawsuit was pending, because he did not want the truth to be known. Of course, when Ms. Lewinsky's name is mentioned during the deposition, particularly in connection with sex, the President is going to listen. Any doubts as to whether he listened to Mr. Bennett's representations are eliminated by watching the videotape of the President's deposition. The videotape shows the President looking directly at Mr. Bennett, paying close attention to his argument to Judge Wright.

FALSE TESTIMONY CONCERNING OBSTRUCTION OF JUSTICE

Article I, Item 4 concerns the President's grand jury perjury regarding his efforts to influence the testimony of witnesses and his efforts to impede discovery in the Jones v. Clinton lawsuit. These lies are perhaps the most troubling, as the President used them in an attempt to conceal his criminal actions and the abuse of his office.

For example, the President testified before the grand jury that he recalled telling Ms. Lewinsky that if Ms. Jones' lawyers requested the gifts exchanged between Ms. Lewinsky and the President, she should provide them. (WJC 8/17/98 GJ, p. 43; H.Doc. 105-311, p. 495) He stated, "And I told her that if they asked her for gifts, she'd have to give them whatever she had, that that's what the law was." (Id.) This testimony is false, as demonstrated by both Ms. Lewinsky's testimony and common sense.

Ms. Lewinsky testified that on December 28, 1997, she discussed with the President the subpoena's request for her to produce gifts, including a hat pin. She told the President that it concerned her, (ML 8/6/98 GJ, p. 151; H.Doc. 105-311, p. 871) and he said that it "bothered" him too. (ML 8/20/98 GJ, p. 66; H.Doc. 105-311, p. 1122) Ms. Lewinsky then suggested that she

give the gifts to someone, maybe to Betty. But rather than instructing her to turn the gifts over to Ms. Jones' attorneys, the President replied, "I don't know" or "Let me think about that." (ML 8/6/98 GJ, p. 152; H.Doc. 105-311, p. 872) Several hours later, Ms. Currie called Ms. Lewinsky on her cellular phone and said, "I understand you have something to give me" or "the President said you have something to give me." (ML 8/6/98 GJ, pgs. 154-155; H.Doc. 105-311, pgs. 874-875)

Although Ms. Currie agrees that she picked up the gifts from Ms. Lewinsky, Ms. Currie testified that "the best" she remembers is that Ms. Lewinsky called her. (BC 5/6/98 GJ, p. 105; H.Doc. 105-316, p. 581) She later conceded that Ms. Lewinsky's memory may be better than hers on this point. (BC 5/6/98 GJ, p. 126; H.Doc. 105-316, p. 584) A telephone record corroborates Ms. Lewinsky, revealing that Ms. Currie did call her from her cellular phone several hours after Ms. Lewinsky's meeting with the president. The only logical reason Ms. Currie called Ms. Lewinsky to retrieve gifts from the President is that the President told her to do so. He would not have given this instruction if he wished the gifts to be given to Ms. Jones' attorneys.

TESTIMONY CONCERNING MS. CURRIE

The President again testified falsely when he told the grand jury that he was simply trying to "refresh" his recollection when he made a series of statements to Ms. Currie the day after his deposition. (WJC 8/17/98 GJ, p. 131; H.Doc. 105-311, p. 583) Ms. Currie testified that she met with the President at about 5:00 P.M. on January 18, 1998, and he proceeded to make these statements to her:

- (1) I was never really alone with Monica, right?
- (2) You were always there when Monica was there, right?
- (3) Monica came on to me, and I never touched her, right?
- (4) You could see and hear everything, right?
- (5) She wanted to have sex with me, and I cannot do that.

(BC 1/27/98 GJ, pgs. 70-75; H.Doc. 105-316, pgs. 559-560; BC 7/22/98 GJ, pgs. 6-7; H.Doc. 105-316, p. 664)

Ms. Currie testified that these were more like statements than questions, and that, as far as she understood, the President wanted her to agree with the statements. (BC 1/27/98 GJ, p. 74; H.Doc. 105-316, p. 559)

The President was asked specifically about these statements before the grand jury. He did not deny them, but said that he

was "trying to refresh [his] memory about what the facts were."
(WJC 8/17/98 GJ, p. 131; H.Doc. 105-311, p. 583) He added that he
wanted to "know what Betty's memory was about what she heard,"
(WJC 8/17/98 GJ, p. 54; H.Doc. 105-316, p. 506) and that he was
"trying to get as much information as quickly as [he] could."
(WJC 8/17/98 GJ, p. 56; H.Doc. 105-311, p. 508) Logic
demonstrates that the President's explanation is contrived and
false.

A person does not refresh his recollection by firing
declarative sentences dressed up as leading questions to his
secretary. If the President was seeking information, he would
have asked Ms. Currie what she recalled. Additionally, a person
does not refresh his recollection by asking questions concerning
factual scenarios of which the listener was unaware, or worse, of
which the declarant and the listener knew were false. How would
Ms. Currie know if she was always there when Ms. Lewinsky was
there? Ms. Currie, in fact, acknowledged during her grand jury
testimony that Ms. Lewinsky could have visited the President at
the White House when Ms. Currie was not there. (BC 7/22/98 GJ,
pgs. 65-66; H.Doc. 105-316, p. 679) Ms. Currie also testified
that there were several occasions when the President and Ms.
Lewinsky were in the Oval Office or study area without anyone

else present. (BC 1/27/98 GJ, pgs. 32-33, 36-38; H.Doc. 105-316, pgs. 552-553)

More importantly, the President admitted in his statement to the grand jury that he was alone with Ms. Lewinsky on several occasions. (WJC 8/17/98 GJ, pgs. 9-10; H.Doc. 105-311, pgs. 460-461) Thus, by his own admission, his statement to Ms. Currie about never being alone with Ms. Lewinsky was false. And if they were alone together, Ms. Currie certainly could not say whether the President touched Ms. Lewinsky or not.

The statement about whether Ms. Currie could see and hear everything is also refuted by the President's own grand jury testimony. During his "intimate" encounters with Ms. Lewinsky, he ensured everyone, including Ms. Currie, was excluded. (WJC 8/17/98 GJ, p. 53; H.Doc. 105-311, p. 505) Why would someone refresh his recollection by making a false statement of fact to a subordinate? The answer is obvious - he would not.

Lastly, the President stated in the grand jury that he was "downloading" information in a "hurry," apparently explaining that he made these statements because he did not have time to listen to answers to open-ended questions. (WJC 8/17/98 GJ, p. 56; H.Doc. 105-311, p. 508) But, if he was in such a hurry, why did the President not ask Ms. Currie to refresh his recollection

when he spoke with her on the telephone the previous evening? He also has no adequate explanation as to why he could not spend an extra five or 10 minutes with Ms. Currie on January 18 to get her version of the events. In fact, Ms. Currie testified that she first met the President on January 18 while he was on the White House putting green, and he told her to go into the office and he would be in in a few minutes. (BC 1/27/98 GJ, pgs. 67-70; H.Doc. 105-316, pgs. 558-559) And if he was in such a hurry, why did he repeat these statements to Ms. Currie a few days later? (BC 1/27/98 GJ, pgs. 80-81; H.Doc. 105-316, pgs. 560-561) The reason for these statements had nothing to do with time constraints or refreshing recollection; he had just finished lying during the Jones deposition about these issues, and he needed corroboration from his secretary.

TESTIMONY ABOUT INFLUENCING AIDES

Not only did the President lie about his attempts to influence Ms. Currie's testimony, but he lied about his attempts to influence the testimony of some of his top aides. Among the President's lies to his aides, described in detail later in this brief, were that Ms. Lewinsky did not perform oral sex on him, and that Ms. Lewinsky stalked him while he rejected her sexual demands. These lies were then disseminated to the media and

attributed to White House sources. They were also disseminated to the grand jury.

When the president was asked about these lies before the grand jury, he testified:

And so I said to them things that were true about this relationship. That I used - in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I never would have to be here on this day giving this testimony? Of course.

But I also didn't want to do anything to complicate this matter further. So I said things that were true. They may have been misleading, and if they were I have to take responsibility for it, and I'm sorry.

(WJC 8/17/98.GJ, p. 106; H.Doc. 105-311, p. 558)

To accept this grand jury testimony as truth, one must believe that many of the President's top aides engaged in a concerted effort to lie to the grand jury in order to incriminate him at the risk of subjecting themselves to a perjury indictment. We suggest that it is illustrative of the President's character that he never felt any compunction in exposing others to false testimony charges, so long as he could conceal his own perjuries. Simply put, such a conspiracy did not exist.

The above are merely highlights of the President's grand jury perjury, and there are numerous additional examples. In order to keep these lies in perspective, three facts must be remembered. First, before the grand jury, the President was not lying to cover up an affair and protect himself from embarrassment, as concealing the affair was now impossible. Second, the President could no longer argue that the facts surrounding his relationship with Ms. Lewinsky were somehow irrelevant or immaterial, as the Office of Independent Counsel and the grand jury had mandates to explore them. Third, he cannot claim to have been surprised or unprepared for questions about Ms. Lewinsky before the grand jury, as he spent days with his lawyer, preparing responses to such questions.

THE PRESIDENT'S METHOD

Again, the President carefully crafted his statements to give the appearance of being candid, when actually his intent was the opposite. In addition, throughout the testimony, whenever the President was asked a specific question that could not be answered directly without either admitting the truth or giving an easily provable false answer, he said, "I rely on my statement." 19 times he relied on this false and misleading statement; nineteen times, then, he repeated those lies in "answering"

questions propounded to him. (See eg. WJC 8/17/98 GJ, pg. 139; H.Doc. 105-311, p. 591)

THE HOUSE COMMITTEE'S REQUEST

In an effort to avoid unnecessary work and to bring its inquiry to an expeditious end, the Judiciary Committee of the House of Representatives submitted to the President 81 requests to admit or deny specific facts relevant to this investigation. (Exhibit 18) Although, for the most part, the questions could have been answered with a simple "admit" or "deny," the President elected to follow the pattern of selective memory, reference to other testimony, blatant untruths, artful distortions, outright lies, and half truths. When he did answer, he engaged in legalistic hair-splitting in an obvious attempt to skirt the whole truth and to deceive and obstruct the due proceedings of the Committee.

THE PRESIDENT'S REPEATS HIS FALSITIES

Thus, on at least 23 questions, the President professed a lack of memory. This from a man who is renowned for his remarkable memory, for his amazing ability to recall details.

In at least 15 answers, the President merely referred to "White House Records." He also referred to his own prior testimony and that of others. He answered several of the

requests by merely restating the same deceptive answers that he gave to the grand jury. We will point out several false statements in this Brief.

In addition, the half-truths, legalistic parsings, evasive and misleading answers were obviously calculated to obstruct the efforts of the House Committee. They had the effect of seriously hampering its ability to inquire and to ascertain the truth. The President has, therefore, added obstruction of an inquiry and an investigation before the Legislative Branch to his obstructions of justice before the Judicial Branch of our constitutional system of government.

THE EARLY ATTACK ON MS. LEWINSKY

After his deposition, the power and prestige of the Office of President was marshaled to destroy the character and reputation of Monica Lewinsky, a young woman that had been ill-used by the President. As soon as her name surfaced, the campaign began to muzzle any possible testimony, and to attack the credibility of witnesses, in a concerted effort to obstruct the due administration of justice in a lawsuit filed by one female citizen of Arkansas. It almost worked.

When the President testified at his deposition that he had no sexual relations, sexual affair or the like with Monica

Lewinsky, he felt secure. Monica Lewinsky, the only other witness was on board. She had furnished a false affidavit also denying everything. Later, when he realized from the January 18, 1998, Drudge Report that there were taped conversations between Ms. Lewinsky and Linda Tripp, he had to develop a new story, and he did. In addition, he recounted that story to White House aides who passed it on to the grand jury in an effort to obstruct that tribunal too.

On Wednesday, January 21, 1998, The Washington Post published a story entitled "Clinton Accused of Urging Aide to Lie; Starr Probes Whether President Told Woman to Deny Alleged Affair to Jones' Lawyers." The White House learned the substance of the Post story on the evening of January 20, 1998.

MR. BENNETT'S REMARK

After the President learned of the existence of the story, he made a series of telephone calls.

At 12:08 a.m. he called his attorney, Mr. Bennett, and they had a conversation. The next morning, Mr. Bennett was quoted in the Washington Post stating:

The President adamantly denies he ever had a relationship with Ms. Lewinsky and she has confirmed the truth of that." He added, "This story seems ridiculous and I frankly smell a rat.

ADDITIONAL CALLS

After that conversation, the President had a half hour conversation with White House counsel, Bruce Lindsey.

At 1:16 a.m., the President called Betty Currie and spoke to her for 20 minutes.

He then called Bruce Lindsey again.

At 6:30 a.m. the President called Vernon Jordan.

After that, the President again conversed with Bruce Lindsey.

This flurry of activity was a prelude to the stories which the President would soon inflict upon top White House aides and advisors.

THE PRESIDENT'S STATEMENTS TO STAFFERSKINE BOWLES

On the morning of January 21, 1998, the President met with White House Chief of Staff, Erskine Bowles, and his two deputies, John Podesta and Sylvia Matthews.

Erskine Bowles recalled entering the President's office at 9:00 a.m. that morning. He then recounts the President's immediate words as he and two others entered the Oval Office:

And he looked up at us and he said the same thing he said to the American people.

He said, "I want you to know I did not have sexual relationships with this woman, Monica Lewinsky. I did not ask anybody to lie. And when the facts come out, you'll understand."

(Bowles, 4/2/98 GJ, p. 84; H.Doc. 105-316, p. 239)

After the President made that blanket denial, Mr. Bowles responded:

I said, "Mr. President, I don't know what the facts are. I don't know if they're good, bad, or indifferent. But whatever they are, you ought to get them out. And you ought to get them out right now."

(Bowles, 4/2/98 GJ, p. 84; H.Doc. 105-316, p. 239)

When counsel asked whether the President responded to Bowles' suggestion that he tell the truth, Bowles responded:

I don't think he made any response, but he didn't disagree with me.

(Bowles, 4/2/98 GJ, p. 84; H.Doc. 105-316, p. 239)

JOHN PODESTA
JANUARY 21, 1998

Deputy Chief John Podesta also recalled a meeting with the President on the morning of January 21, 1998.

He testified before the grand jury as to what occurred in the Oval Office that morning:

A. And we started off meeting - we didn't -

I don't think we said anything. And I think the President directed this specifically to Mr. Bowles. He said, "Erskine, I want you to know that this story is not true."

Q. What else did he say?

A. He said that - that he had not had a sexual relationship with her, and that he never asked anybody to lie.

(Podesta, 6/16/98 GJ, p. 85; H.Doc. 105-316, p. 3310)

JANUARY 23, 1998

Two days later, on January 23, 1998, Mr. Podesta had another discussion with the President:

I asked him how he was doing, and he said he was working on this draft and he said to me that he never had sex with her, and that - and that he never asked - you know, he repeated the denial, but he was extremely explicit in saying he never had sex with her.

Then Podesta testified as follows:

Q. Okay. Not explicit, in the sense the he got more specific than sex, than the word "sex."

A. Yes, he was more specific than that.

Q. Okay, share that with us.

A. Well, I think he said - he said that - there was some spate. Of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever -

Q. Okay.

A. - That they had not had oral sex.

(Podesta, 6/16/98 GJ, p. 92; H.Doc. 105-316, p. 3311) (Exhibit V)

SIDNEY BLUMENTHAL

Later in the day on January 21, 1998, the President called Sidney Blumenthal to his office. It is interesting to note how the President's lies become more elaborate and pronounced when he has time to concoct his newest line of defense. When the President spoke to Mr. Bowles and Mr. Podesta, he simply denied the story. But, by the time he spoke to Mr. Blumenthal, the President has added three new angles to his defense strategy: (1) he now portrays Monica Lewinsky as the aggressor; (2) he launches an attack on her reputation by portraying her as a "stalker"; and (3) he presents himself as the innocent victim being attacked by the forces of evil.

Note well this recollection by Mr. Blumenthal in his June 4, 1998 testimony: (Chart U)

And it was at this point that he gave his account of what had happened to me and he said that Monica - and it came very fast. He said, "Monica Lewinsky came at me and made a sexual demand on me." He rebuffed her. He said, "I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again."

She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be the stalker anymore.

(Blumenthal, 6/4/98 GJ, p. 49; H. Doc. 105-316, p. 185)

And then consider what the President told Mr. Blumenthal moments later:

And he said, "I feel like a character in a novel. I feel like somebody who is surrounded by an oppressive force that is creating a lie about me and I can't get the truth out. I feel like the character in the novel Darkness at Noon."

And I said to him, "When this happened with Monica Lewinsky, were you alone?" He said, "Well, I was within eyesight or earshot of someone."

(Blumenthal, 6/4/98 GJ, p. 50; H.Doc. 105-316, p. 185)

At one point, Mr. Blumenthal was asked by the grand jury to describe the President's manner and demeanor during the exchange.

Q. In response to my question how you responded to the President's story about a threat or discussion about a threat from Ms. Lewinsky, you mentioned you didn't recall

specifically. Do you recall generally the nature of your response to the President?

- A. It was generally sympathetic to the President. And I certainly believed his story. It was a very heartfelt story, he was pouring out his heart, and I believed him.

(Blumenthal, 6/25/98 GJ, pgs. 16-17; H.Doc. 105-316, pgs. 192-193)

BETTY CURRIE

When Betty Currie testified before the grand jury, she could not recall whether she had another one-on-one discussion with the President on Tuesday, January 20, or Wednesday, January 21. But she did state that on one of those days, the President summoned her back to his office. At that time, the President recapped their now-infamous Sunday afternoon post-deposition discussion in the Oval Office. It was at that meeting that the President made a series of statements to Ms. Currie, to some of which she could not possibly have known the answers. (e.g. "Monica came on to me and I never touched her, right?") (BC 1/27/98 GJ, pgs. 70-75; H.Doc. 105-316, pgs. 559-560; BC 7/22/98 GJ, pgs. 6-7; H.Doc. 105-316, p. 664)

When he spoke to her on January 20 or 21, he spoke in the same tone and demeanor that he used in his January 18 Sunday

session.

Ms. Currie stated that the President may have mentioned that she might be asked about Monica Lewinsky. (BC, 1/24/98 Int., p. 8; H.Doc. 105-316, p. 536)

MOTIVE FOR LIES TO STAFF

It is abundantly clear that the President's assertions to staff were designed for dissemination to the American people. But it is more important to understand that the President intended his aides to relate that false story to investigators and grand jurors alike. We know that this is true for the following reasons: the Special Division had recently appointed the Office of Independent Counsel to investigate the Monica Lewinsky matter; the President realized that Jones' attorneys and investigators were investigating this matter; the Washington Post journalists and investigators were exposing the details of the Lewinsky affair; and, an investigation relating to perjury charges based on Presidential activities in the Oval Office would certainly lead to interviews with West Wing employees and high level staffers. Because the President would not appear before the grand jury, his version of events would be supplied by those staffers to whom he had lied. The President actually acknowledged that he knew his aides might be called before the

grand jury. (WJC 8/17/98 GJ, pgs. 105-109; H.Doc. 105-311, pgs. 557-557)

In addition, Mr. Podesta testified that he knew that he was likely to be a witness in the ongoing grand jury criminal investigation. He said that he was "sensitive about not exchanging information because I knew I was a potential witness." (Podesta 6/23/98 GJ, p. 79; H.Doc. 105-316, p. 3332) He also recalled that the President volunteered to provide information about Ms. Lewinsky to him even though Mr. Podesta had not asked for these details. (Podesta 6/23/98 GJ, p. 79; H.Doc. 105-316, p. 3332)

In other words, the President's lies and deceptions to his White House aides, coupled with his steadfast refusal to testify had the effect of presenting a false account of events to investigators and grand jurors. The President's aides believed the President when he told them his contrived account. The aides' eventual testimony provided the President's calculated falsehoods to the grand jury which, in turn, gave the jurors an inaccurate and misleading set of facts upon which to base any decisions.

WIN, WIN, WIN

President Clinton also implemented a win-at-all-costs

strategy calculated to obstruct the administration of justice in the Jones case and in the grand jury. This is demonstrated in testimony presented by Richard "Dick" Morris to the federal grand jury.

Mr. Morris, a former presidential advisor, testified that on January 21, 1998, he met President Clinton and they discussed the turbulent events of the day. The President again denied the accusations against him. After further discussions, they decided to have an overnight poll taken to determine if the American people would forgive the President for adultery, perjury, and obstruction of justice. When Mr. Morris received the results, he called the President:

And I said, "They're just too shocked by this. It's just too new, it's too raw." And I said, "And the problem is they're willing to forgive you for adultery, but not for perjury or obstruction of justice or the various other things."

(Morris 8/18/98 GJ, p. 28; H.Doc. 105-316, p. 2929)

Morris recalls the following exchange:

Morris: And I said, "They're just not ready for it." meaning the voters.

WJC Well, we just have to win, then.

(Morris 8/18/98 GJ, p. 30; H.Doc. 105-216, p. 2930)

The President, of course, cannot recall this statement.

(Presidential Responses to Questions, Numbers 69, 70, and 71)

THE PLOT TO DISCREDIT MONICA LEWINSKY

In order to "win," it was necessary to convince the public, and hopefully the grand jurors who read the newspapers, that Monica Lewinsky was unworthy of belief. If the account given by Ms. Lewinsky to Linda Tripp was believed, then there would emerge a tawdry affair in and near the Oval Office. Moreover, the President's own perjury and that of Monica Lewinsky would surface. To do this, the President employed the full power and credibility of the White House and its press corps to destroy the witness. Thus on January 29, 1998:

Inside the White House, the debate goes on about the best way to destroy That Woman, as President Bill Clinton called Monica Lewinsky. Should they paint her as a friendly fantasist or a malicious stalker? (The Plain Dealer)

Again:

"That poor child has serious emotional problems," Rep. Charles Rangel, Democrat of New York, said Tuesday night before the State of the Union. "She's fantasizing. And I haven't heard that she played with a full deck in her other experiences." (The Plain Dealer)

From Gene Lyons, an Arkansas columnist on January 30:

But it's also very easy to take a mirror's eye view of this thing, look at this thing from a completely different direction and take the same evidence and posit a totally innocent relationship in which the president was, in a sense, the victim of someone rather like the woman who followed David Letterman around. (NBC News)

From another "source" on February 1:

Monica had become known at the White House, says one source, as "the stalker."

And on February 4:

The media have reported that sources describe Lewinsky as "infatuated" with the president, "star struck" and even "a stalker." (Buffalo News)

Finally, on January 31:

One White House aide called reporters to offer information about Monica Lewinsky's past, her weight problems and what the aide said was her nickname - "The Stalker."

Junior staff members, speaking on the condition that they not be identified, said she was known as a flirt, wore her skirts too short, and was "A little bit weird."

Little by little, ever since allegations of an affair between U.S. President Bill Clinton and Lewinsky surfaced 10 days ago, White House sources have waged a behind-the-scenes campaign to portray her as an untrustworthy climber obsessed with the President.

Just hours after the story broke, one White House source made unsolicited calls offering that Lewinsky was the "troubled" product of divorced parents and may have been following

the footsteps of her mother, who wrote a tell-all book about the private lives of three famous opera singers.

One story had Lewinsky following former Clinton aide George Stephanopoulos to Starbucks. After observing what kind of coffee he ordered, she showed up the next day at his secretary's desk with a cup of the same coffee to "surprise him." (Toronto Sun)

This sounds familiar because it is the exact tactic used to destroy the reputation and credibility of Paula Jones. The difference is that these false rumors were emanating from the White House, the bastion of the free world, to protect one man from being forced to answer for his deportment in the highest office in the land.

On August 17, 1998, the President testified before the grand jury. He then was specifically asked whether he knew that his aides (Blumenthal, Bowles, Podesta and Currie) were likely to be called before the grand jury.

Q It may have been misleading, sir, and you knew though, after January 21st when the Post article broke and said that Judge Starr was looking into this, you knew that they might be witnesses. You knew that they might be called into a grand jury, didn't you?

WJC That's right. I think I was quite careful what I said after that. I may have said something to all these

people to that effect, but I'll also - whenever anybody asked me any details, I said, look, I don't want you to be a witness or I turn you into a witness or give you information that would get you in trouble. I just wouldn't talk. I, by and large, didn't talk to people about it.

Q If all of these people - let's leave Mrs. Currie for a minute. Vernon Jordan, Sid Blumenthal, John Podesta, Harold Ickes, Erskine Bowles, Harry Thomasson, after the story broke, after Judge Starr's involvement was known on January 21st, have said that you denied a sexual relationship with them. Are you denying that?

WJC No.

Q And you've told us that you -

WJC I'm just telling you what I meant by it. I told you what I meant by it when they started this deposition.

Q You've told us now that you were being careful, but that it might have been misleading. Is that correct?

WJC It might have been *** So, what I was trying to do was to give them something they could - that would be true, even if misleading in the context of this deposition, and keep them out of trouble, and let's deal - and deal with what I thought was the almost ludicrous suggestion that I had urged someone to lie or tried to suborn perjury, in other words.

(WJC 8/17/98 GJ, pgs. 106-108; H.Doc. 105-311, pgs. 558-560)

As the President testified before the grand jury, he maintained that he was being truthful with his aides. (Exhibit 20) He stated that when he spoke to them, he was very careful with his wording. The President stated that he wanted his statement regarding "sexual relations" to be literally true because he was only referring to intercourse.

However, recall that John Podesta said that the President denied sex "in any way whatsoever" "including oral sex." The President told Mr. Podesta, Mr. Bowles, Ms. Williams, and Harold Ickes that he did not have a "sexual relationship" with that woman.

Importantly, seven days after the President's grand jury appearance, the White House issued a document entitled, "Talking Points January 24, 1998." (Chart W; Exhibit 16) This "Talking Points" document outlines proposed questions that the President may be asked. It also outlines suggested answers to those questions. The "Talking Points" purport to state the President's view of sexual relations and his view of the relationship with Monica Lewinsky. (Exhibit 17)

The "Talking Points" state as follows:

Q. What acts does the President believe

constitute a sexual relationship?

A. I can't believe we're on national television discussing this. I am not about to engage in an "act-by-act" discussion of what constitutes a sexual relationship.

Q. Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?

A. Of course it would.

The President's own talking points refute the President's "literal truth" argument.

EFFECT OF THE PRESIDENT'S CONDUCT

Some "experts" have questioned whether the President's deportment affects his office, the government of the United States or the dignity and honor of the country.

Our founders decided in the Constitutional Convention that one of the duties imposed upon the President is to "take care that the laws be faithfully executed." Furthermore, he is required to take an oath to "Preserve, protect and defend the Constitution of the United States." Twice this President stood on the steps of the Capitol, raised his right hand to God and repeated that oath.

The Fifth Amendment to the Constitution of the United States

provides that no person shall "be deprived of life, liberty or property without due process of law."

The Seventh Amendment insures that in civil suits "the right of trial by jury shall be preserved."

Finally, the Fourteenth Amendment guarantees due process of law and the equal protection of the laws.

THE EFFECT ON MS. JONES' RIGHTS

Paula Jones is an American citizen, just a single citizen who felt that she had suffered a legal wrong. More important, that legal wrong was based upon the Constitution of the United States. She claimed essentially that she was subjected to sexual harassment, which, in turn, constitutes discrimination on the basis of gender. The case was not brought against just any citizen, but against the President of the United States, who was under a legal and moral obligation to preserve and protect Ms. Jones' rights. It is relatively simple to mouth high-minded platitudes and to prosecute vigorously rights violations by someone else. It is, however, a test of courage, honor and integrity to enforce those rights against yourself. The President failed that test. As a citizen, Ms. Jones enjoyed an absolute constitutional right to petition the Judicial Branch of government to redress that wrong by filing a lawsuit in the

United States District Court, which she did. At this point she became entitled to a trial by jury if she chose, due process of law and the equal protection of the laws no matter who the defendant was in her suit. Due process contemplates the right to a full and fair trial, which, in turn, means the right to call and question witnesses, to cross-examine adverse witnesses and to have her case decided by an unbiased and fully informed jury. What did she actually get? None of the above.

On May 27, 1997, the United States Supreme Court ruled in a nine to zero decision that, "like every other citizen," Paula Jones "has a right to an orderly disposition of her claims." In accordance with the Supreme Court's decision, United States District Judge Susan Webber Wright ruled on December 11, 1997, that Ms. Jones was entitled to information regarding state or federal employees with whom the President had sexual relations from May, 1986 to the present. Judge Wright had determined that the information was reasonably calculated to lead to the discovery of admissible evidence. Six days after this ruling, the President filed an answer to Ms. Jones' Amended Complaint. The President's Answer stated: "President Clinton denies that he engaged in any improper conduct with respect to plaintiff or any other woman."

Ms. Jones' right to call and depose witnesses was thwarted by perjurious and misleading affidavits and motions; her right to elicit testimony from adverse witnesses was compromised by perjury and false and misleading statements under oath. As a result, had a jury tried the case, it would have been deprived of critical information.

That result is bad enough, but it reaches constitutional proportions when denial of the civil rights is directed by the President of the United States who twice took an oath to preserve, protect and defend those rights. But we now know what the "sanctity of an oath" means to the President.

THE EFFECT ON THE OFFICE OF PRESIDENT

Moreover, the President is the spokesman for the government and the people of the United States concerning both domestic and foreign matters. His honesty and integrity, therefore, directly influence the credibility of this country. When, as here, that spokesman is guilty of a continuing pattern of lies, misleading statements, and deceptions over a long period of time, the believability of any of his pronouncements is seriously called into question. Indeed, how can anyone in or out of our country any longer believe anything he says? And what does that do to confidence in the honor and integrity of the United States?

Make no mistake, the conduct of the President is inextricably bound to the welfare of the people of the United States. Not only does it affect economic and national defense, but even more directly, it affects the moral and law-abiding fibre of the commonwealth, without which no nation can survive. When, as here, that conduct involves a pattern of abuses of power, of perjury, of deceit, of obstruction of justice and of the Congress, and of other illegal activities, the resulting damage to the honor and respect due to the United States is, of necessity, devastating.

THE EFFECT ON THE SYSTEM

Again: there is no such thing as non-serious lying under oath. Every time a witness lies, that witness chips a stone from the foundation of our entire legal system. Likewise, every act of obstruction of justice, of witness tampering or of perjury adversely affects the judicial branch of government like a pebble tossed into a lake. You may not notice the effect at once, but you can be certain that the tranquility of that lake has been disturbed. And if enough pebbles are thrown into the water, the lake itself may disappear. So too with the truth-seeking process of the courts. Every unanswered and unpunished assault upon it has its lasting effect and given enough of them, the system

itself will implode.

That is why two women who testified before the Committee had been indicted, convicted and punished severely for false statements under oath in civil cases. And that is why only recently a federal grand jury in Chicago indicted four former college football players because they gave false testimony under oath to a grand jury. Nobody suggested that they should not be charged because their motives may have been to protect their careers and family. And nobody has suggested that the perjury was non-serious because it involved only lies about sports; i.e., betting on college football games.

DISREGARD OF THE RULE OF LAW

Apart from all else, the President's illegal actions constitute an attack upon and utter disregard for the truth, and for the rule of law. Much worse, they manifest an arrogant disdain not only for the rights of his fellow citizens, but also for the functions and the integrity of the other two co-equal branches of our constitutional system. One of the witnesses that appeared earlier likened the government of the United States to a three-legged stool. The analysis is apt, because the entire structure of our country rests upon three equal supports: the Legislative, the Judicial, and the Executive. Remove one of

those supports, and the State will totter. Remove two and the structure will collapse altogether.

EFFECT ON THE JUDICIAL BRANCH

The President mounted a direct assault upon the truth-seeking process which is the very essence and foundation of the Judicial Branch. Not content with that, though, Mr. Clinton renewed his lies, half-truths and obstruction to this Congress when he filed his answers to simple requests to admit or deny. In so doing, he also demonstrated his lack of respect for the constitutional functions of the Legislative Branch.

Actions do not lose their public character merely because they may not directly affect the domestic and foreign functioning of the Executive Branch. Their significance must be examined for their effect on the functioning of the entire system of government. Viewed in that manner, the President's actions were both public and extremely destructive.

THE CONDUCT CHARGED
WARRANTS CONVICTION AND REMOVAL

The Articles state offenses that warrant the President's conviction and removal from office. The Senate's own precedents establish that perjury and obstruction warrant conviction and removal from office. Those same precedents establish that the

perjury and obstruction need not have any direct connection to the officer's official duties.

PRECEDENTS

In the 1980s, the Senate convicted and removed from office three federal judges for making perjurious statements. Background and History of Impeachment Hearings before the Subcomm. On the Constitution of the House Comm. on the Judiciary, 105th Cong., 2nd Sess. at 190-193 (Comm. Print 1998), (Testimony of Charles Cooper) ("Cooper Testimony") Although able counsel represented each judge, none of them argued that perjury or making false statements are not impeachable offenses. Nor did a single Congressman or Senator, in any of the three impeachment proceedings, suggest that perjury does not constitute a high crime and misdemeanor. Finally, in the cases of Judge Claiborne and Judge Nixon, it was undisputed that the perjury was not committed in connection with the exercise of the judges' judicial powers.

JUDGE NIXON

In 1989, Judge Walter L. Nixon, Jr., was impeached, convicted, and removed from office for committing perjury. Judge Nixon's offense stemmed from his grand jury testimony and statements to federal officers concerning his intervention in the

state drug prosecution of Drew Fairchild, the son of Wiley Fairchild, a business partner of Judge Nixon's.

Although Judge Nixon had no official role or function in Drew Fairchild's case (which was assigned to a state court judge), Wiley Fairchild had asked Judge Nixon to help out by speaking to the prosecutor. Judge Nixon did so, and the prosecutor, a long-time friend of Judge Nixon's, dropped the case. When the FBI and the Department of Justice interviewed Judge Nixon, he denied any involvement whatsoever. Subsequently, a federal grand jury was empaneled and Judge Nixon again denied his involvement before that grand jury.

After a lengthy criminal prosecution, Judge Nixon was convicted on two counts of perjury before the grand jury and sentenced to five years in prison on each count. Not long thereafter, the House impeached Judge Nixon by a vote of 417 to 0. The first article of impeachment charged him with making the false or misleading statement to the grand jury that he could not "recall" discussing the Fairchild case with the prosecutor. The second article charged Nixon with making affirmative false or misleading statements to the grand jury that he had "nothing whatsoever officially or unofficially to do with the Drew Fairchild case." The third article alleged that Judge Nixon made

numerous false statements (not under oath) to federal investigators prior to his grand jury testimony. See 135 Cong. Rec. H1802-03.

The House unanimously impeached Judge Nixon, and the House Managers' Report expressed no doubt that perjury is an impeachable offense:

It is difficult to imagine an act more subversive to the legal process than lying from the witness stand. A judge who violates his testimonial oath and misleads a grand jury is clearly unfit to remain on the bench. If a judge's truthfulness cannot be guaranteed, if he sets less than the highest standard for candor, how can ordinary citizens who appear in court be expected to abide by their testimonial oath?

House of Representatives' Brief in Support of the Articles of Impeachment at 59 (1989). House Manager Sensenbrenner addressed the question even more directly:

There are basically two questions before you in connection with this impeachment. First, does the conduct alleged in the three articles of impeachment state an impeachable offense? There is really no debate on this point. The articles allege misconduct that is criminal and wholly inconsistent with judicial integrity and the judicial oath. Everyone agrees that a judge who lies under oath, or who deceives Federal investigators by lying in an interview, is not fit to remain on the bench.

135 Cong. Rec. S14,497 (Statement of Rep. Sensenbrenner)

The Senate agreed, overwhelmingly voting to convict Judge Nixon of perjury on the first two articles (89-8 and 78-19,

respectively). As Senator Carl Levin explained:

The record amply supports the finding in the criminal trial that Judge Nixon's statements to the grand jury were false and misleading and constituted perjury. Those are the statements cited in articles I and II and it is on those articles that I vote to convict Judge Nixon and remove him from office.

135 Cong. Rec. S14,637 (Statement of Sen. Levin).

JUDGE HASTINGS

Also in 1989, the House impeached Judge Alcee L. Hastings for, among other things, committing numerous acts of perjury. The Senate convicted him, and he was removed from office. Initially, Judge Hastings had been indicted by a federal grand jury for conspiracy stemming from his alleged bribery conspiracy with his friend Mr. William Borders to "fix" cases before Judge Hastings in exchange for cash payments from defendants. Mr. Borders was convicted, but, at his own trial, Judge Hastings took the stand and unequivocally denied any participation in a conspiracy with Mr. Borders. The jury acquitted Judge Hastings on all counts. Nevertheless, the House impeached Judge Hastings, approving seventeen articles of impeachment, fourteen of which were for lying under oath at his trial.

The House voted 413 to 3 to impeach. The House Managers' Report left no doubt that perjury alone is impeachable:

It is important to realize that each instance of false testimony charged in the false statement articles is more than enough reason to convict Judge Hastings and remove him from office. Even if the evidence were insufficient to prove that Judge Hastings was part of the conspiracy with William Borders, which the House in no way concedes, the fact that he lied under oath to assure his acquittal is conduct that cannot be tolerated of a United States District Judge. To bolster one's defense by lying to a jury is separate, independent corrupt conduct. For this reason alone, Judge Hastings should be removed from public office.

The House of Representatives' Brief in Support of the Articles of Impeachment at 127-28 (1989). Representative John Conyers (D-Mich.) also argued for the impeachment of Judge Hastings:

[W]e can no more close our eyes to acts that constitute high crimes and misdemeanors when practiced by judges whose views we approve than we could against judges whose views we detested. It would be disloyal . . . to my oath of office at this late state of my career to attempt to set up a double standard for those who share my philosophy and for those who may oppose it. In order to be true to our principles, we must demand that all persons live up to the same high standards that we demand of everyone else.

134 Cong. Rec. H6184 (1988) (Statement of Rep. Conyers).

JUDGE CLAIBORNE

In 1986, Judge Harry E. Claiborne was impeached, convicted, and removed from office for making false statements under penalties of perjury. In particular, Judge Claiborne had filed false income tax returns in 1979 and 1980, grossly understating

his income. As a result, he was convicted by a jury of two counts of willfully making a false statement on a federal tax return in violation of 26 U.S.C. § 7206(1). Subsequently, the House unanimously (406-0) approved four articles of impeachment. The proposition that Claiborne's perjurious personal income tax filings were not impeachable was never even seriously considered.

As the House Managers explained:

[T]he constitutional issues raised by the first two Articles of Impeachment [concerning the filing of false tax returns] are readily resolved. The Constitution provides that Judge Claiborne may be impeached and convicted for "High Crimes and Misdemeanors." Article II, Section 4. The willful making or subscribing of a false statement on a tax return is a felony offense under the laws of the United States. The commission of such a felony is a proper basis for Judge Claiborne's impeachment and conviction in the Senate.

Proceedings of the United States Senate Impeachment Trial of

Judge Harry E. Claiborne, S. Doc. No. 99-48, at 40

(1986) ("Claiborne Proceedings") (emphases added).

House Manager Rodino, in his oral argument to the Senate, emphatically made the same point:

Honor in the eyes of the American people lies in public officials who respect the law, not in those who violate the trust that has been given to them when they are trusted with public office. Judge Harry E. Claiborne has, sad to say, undermined the integrity of the judicial branch of Government. To restore that

integrity and to maintain public confidence in the administration of justice, Judge Claiborne must be convicted on the fourth Article of Impeachment [that of reducing confidence in the integrity of the judiciary].

132 Cong. Rec. S15,481 (1986) (Statement of Rep. Rodino).

The Senate agreed. Telling are the words of then-Senator Albert Gore, Jr. In voting to convict Judge Claiborne and remove him from office:

The conclusion is inescapable that Claiborne filed false income tax returns and that he did so willfully rather than negligently. . . . Given the circumstances, it is incumbent upon the Senate to fulfill its constitutional responsibility and strip this man of his title. An individual who has knowingly falsified tax returns has no business receiving a salary derived from the tax dollars of honest citizens. More importantly, an individual guilty of such reprehensible conduct ought not be permitted to exercise the awesome powers which the Constitution entrusts to the Federal Judiciary.

Claiborne Proceedings, S. Doc. No. 99-48, at 372 (1986).

APPLICATION TO THE PRESIDENT

To avoid the conclusive force of these recent precedents -- and in particular the exact precedent supporting impeachment for, conviction, and removal for perjury -- the only recourse for the President's defenders is to argue that a high crime or misdemeanor for a judge is not necessarily a high crime or misdemeanor for the President. The arguments advanced in support of this dubious proposition do not withstand serious scrutiny.

See generally Cooper Testimony, at 193.

The Constitution provides that Article III judges "shall hold their Offices during good Behavior, U.S. Const. Art. III, 1. Thus, these arguments suggest that judges are impeachable for "misbehavior" while other federal officials are only impeachable for treason, bribery, and other high crimes and misdemeanors.

The staff of the House Judiciary Committee in the 1970s and the National Commission on Judicial Discipline and Removal in the 1990s both issued reports rejecting these arguments. In 1974, the staff of the Judiciary Committee's Impeachment Inquiry issued a report which included the following conclusion:

Does Article III, Section 1 of the Constitution, which states that judges 'shall hold their Offices during good Behaviour,' limit the relevance of the ten impeachments of judges with respect to presidential impeachment standards as has been argued by some? It does not. The argument is that 'good behavior' implies an additional ground for impeachment of judges not applicable to other civil officers. However, the only impeachment provision discussed in the Convention and included in the Constitution is Article II, Section 4, which by its expressed terms, applies to all civil officers, including judges, and defines impeachment offenses as 'Treason, Bribery, and other high Crimes and Misdemeanors.'

Staff of House Comm. on the Judiciary, 93rd Cong., 2^d Sess.,

Constitutional Grounds for Presidential Impeachment (Comm. Print 1974) ("1974 Staff Report") at 17.

The National Commission on Judicial Discipline and Removal came to the same conclusion. The Commission concluded that "the most plausible reading of the phrase 'during good Behavior' is that it means tenure for life, subject to the impeachment power. . . . The ratification debates about the federal judiciary seem to have proceeded on the assumption that good-behavior tenure meant removal only through impeachment and conviction." National Commission on Judicial Discipline and Removal, Report of the National Commission on Judicial Discipline and Removal 17-18 (1993) (footnote omitted).

The record of the 1986 impeachment of Judge Claiborne also argues against different impeachment standards for federal judges and presidents. Judge Claiborne filed a motion asking the Senate to dismiss the articles of impeachment against him for failure to state impeachable offenses. One of the motion's arguments was that "[t]he standard for impeachment of a judge is different than that for other officers" and that the Constitution limited "removal of the judiciary to acts involving misconduct related to discharge of office." Memorandum in Support of Motion to Dismiss the Articles of Impeachment on the Grounds They Do Not State Impeachable Offenses 4 (hereinafter cited as "Claiborne Motion"), reprinted in Hearings Before the Senate Impeachment

Trial Committee, 99th Cong., 2^d Sess. 245 (1986) (hereinafter cited as "Senate Claiborne Hearings").

Representative Kastenmeier responded that "reliance on the term 'good behavior' as stating a sanction for judges is totally misplaced and virtually all commentators agree that that is directed to affirming the life tenure of judges during good behavior. It is not to set them down, differently, as judicial officers from civil officers." *Id.* at 81-82. He further stated that "[n]or . . . is there any support for the notion that . . . Federal judges are not civil officers of the United States, subject to the impeachment clause of article II of the Constitution." *Id.* at 81.

The Senate never voted on Claiborne's motion. However, the Senate was clearly not swayed by the arguments contained therein because it later voted to convict Judge Claiborne. 132 Cong. Rec. S15,760-62 (daily ed. Oct. 9, 1986). The Senate thus rejected the claim that the standard of impeachable offenses was different for judges than for presidents.

Moreover, even assuming that presidential high crimes and misdemeanors could be different from judicial ones, surely the President ought not be held to a lower standard of impeachability than judges. In the course of the 1980s judicial impeachments,

Congress emphasized unequivocally that the removal from office of federal judges guilty of crimes indistinguishable from those currently charged against the President was essential to the preservation of the rule of law. If the perjury of just one judge so undermines the rule of law as to make it intolerable that he remain in office, then how much more so does perjury committed by the President of the United States, who alone is charged with the duty "to take Care that the Laws be faithfully executed." See generally, Cooper Testimony at 194)

It is just as devastating to our system of government when a President commits perjury. As the House Judiciary Committee stated in justifying an article of impeachment against President Nixon, the President not only has "the obligation that every citizen has to live under the law," but in addition has the duty "not merely to live by the law but to see that law faithfully applied." Impeachment of Richard M. Nixon, President of the United States, H. Rept. No. 93-1305, 93rd Cong., 2^d Sess. at 180 (1974). The Constitution provides that he "shall take Care that the Laws be faithfully executed." U.S. Const Art. II, § 3. When a President, as chief law enforcement officer of the United States, commits perjury, he violates this constitutional oath unique to his office and casts doubt on the notion that we are a

nation ruled by laws and not men.

PERJURY AND OBSTRUCTION ARE AS SERIOUS AS BRIBERY

Further evidence that perjury and obstruction warrant conviction and removal comes directly from the text of the Constitution. Because the Constitution specifically mentions bribery, no one can dispute that it is an impeachable offense. U.S. Const., art. II, § 4. Because the constitutional language does not limit the term, we must take it to mean all forms of bribery. Our statutes specifically criminalize bribery of witnesses with the intent to influence their testimony in judicial proceedings. 18 U.S.C. § 201(b)(3) & (4), (c)(2) & (3). See also 18 U.S.C. §§ 1503 (general obstruction of justice statute), 1512 (witness tampering statute). Indeed, in a criminal case, the efforts to provide Ms. Lewinsky with job assistance in return for submitting a false affidavit charged in the Articles might easily have been charged under these statutes. No one could reasonably argue that the President's bribing a witness to provide false testimony - even in a private lawsuit - does not rise to the level of an impeachable offense. The plain language of the Constitution indicates that it is.

Having established that point, the rest is easy. Bribing a witness is illegal because it leads to false testimony that in

turn undermines the ability of the judicial system to reach just results. Thus, among other things, the Framers clearly intended impeachment to protect the judicial system from these kinds of attacks. Perjury and obstruction of justice are illegal for exactly the same reason, and they accomplish exactly the same ends through slightly different means. Simple logic establishes that perjury and obstruction of justice -- even in a private lawsuit -- are exactly the types of other high crimes and misdemeanors that are of the same magnitude as bribery.

HIGH CRIMES AND MISDEMEANORS

Although Congress has never adopted a fixed definition of "high crimes and misdemeanors," much of the background and history of the impeachment process contradicts the President's claim that these offenses are private and therefore do not warrant conviction and removal. Two reports prepared in 1974 on the background and history of impeachment are particularly helpful in evaluating the President's defense. Both reports support the conclusion that the facts in this case compel the conviction and removal of President Clinton.

Many have commented on the report on "Constitutional Grounds for Presidential Impeachment" prepared in February 1974 by the staff of the Nixon impeachment inquiry. The general principles

concerning grounds for impeachment set forth in that report indicate that perjury and obstruction of justice are impeachable offenses. Consider this key language from the staff report describing the type of conduct which gives rise to impeachment:

The emphasis has been on the significant effects of the conduct -- undermining the integrity of office, disregard of constitutional duties and oath of office, arrogation of power, abuse of the governmental process, adverse impact on the system of government.

1974 Staff Report at 26 (emphases added).

Perjury and obstruction of justice clearly "undermine the integrity of office." They unavoidably erode respect for the office of the President. Such offenses obviously involve "disregard of [the President's] constitutional duties and oath of office." Moreover, these offenses have a direct and serious "adverse impact on the system of government." Obstruction of justice is by definition an assault on the due administration of justice -- a core function of our system of government.

The thoughtful report on "The Law of Presidential Impeachment" prepared by the Association of the Bar of the City of New York in January of 1974 also places a great deal of emphasis on the corrosive impact of presidential misconduct on the integrity of office:

It is our conclusion, in summary, that the grounds for

impeachment are not limited to or synonymous with crimes Rather, we believe that acts which undermine the integrity of government are appropriate grounds whether or not they happen to constitute offenses under the general criminal law. In our view, the essential nexus to damaging the integrity of government may be found in acts which constitute corruption in, or flagrant abuse of the powers of, official position. It may also be found in acts which, without directly affecting governmental processes, undermine that degree of public confidence in the probity of executive and judicial officers that is essential to the effectiveness of government in a free society.

Association of the Bar of the City of New York, The Law of Presidential Impeachment, (1974) at 161 (emphases added). The commission of perjury and obstruction of justice by a President are acts that without doubt "undermine that degree of public confidence in the probity of the [the President] that is essential to the effectiveness of government in a free society." Such acts inevitably subvert the respect for law which is essential to the well-being of our constitutional system.

That the President's perjury and obstruction do not directly involve his official conduct does not diminish their significance. The record is clear that federal officials have been impeached for reasons other than official misconduct. As set forth above, two recent impeachments of federal judges are compelling examples. In 1989, Judge Walter Nixon was impeached,

convicted, and removed from office for committing perjury before a federal grand jury. Judge Nixon's perjury involved his efforts to fix a state case for the son of a business partner -- a matter in which he had no official role. In 1986, Judge Harry E. Claiborne was impeached, convicted, and removed from office for making false statements under penalty of perjury on his income tax returns. That misconduct had nothing to do with his official responsibilities.

Nothing in the text, structure, or history of the Constitution suggests that officials are subject to impeachment only for official misconduct. Perjury and obstruction of justice -- even regarding a private matter -- are offenses that substantially affect the President's official duties because they are grossly incompatible with his preeminent duty to "take care that the laws be faithfully executed." Regardless of their genesis, perjury and obstruction of justice are acts of public misconduct -- they cannot be dismissed as understandable or trivial. Perjury and obstruction of justice are not private matters; they are crimes against the system of justice, for which impeachment, conviction, and removal are appropriate.

The record of Judge Claiborne's impeachment proceedings affirms that conclusion. Representative Hamilton Fish, the

ranking member of the Judiciary Committee and one of the House managers in the Senate trial, stated that "[i]mpeachable conduct does not have to occur in the course of the performance of an officer's official duties. Evidence of misconduct, misbehavior, high crimes, and misdemeanors can be justified upon one's private dealings as well as one's exercise of public office. That, of course, is the situation in this case." 132 Cong. Rec. H4713 (daily ed. July 22, 1986).

Judge Claiborne's unsuccessful motion that the Senate dismiss the articles of impeachment for failure to state impeachable offenses provides additional evidence that personal misconduct can justify impeachment. One of the arguments his attorney made for the motion was that "there is no allegation . . . that the behavior of Judge Claiborne in any way was related to misbehavior in his official function as a judge; it was private misbehavior." (Senate Claiborne Hearings, at 77, Statement of Judge Claiborne's counsel, Oscar Goodman). (See also Claiborne Motion, at 3)

Representative Kastenmeier responded by stating that "it would be absurd to conclude that a judge who had committed murder, mayhem, rape, or perhaps espionage in his private life, could not be removed from office by the U.S. Senate." (Senate

Claiborne Hearings, at 81) Kastenmeier's response was repeated by the House of Representatives in its pleading opposing Claiborne's motion to dismiss. (Opposition to Claiborne Motion at 2)

The Senate did not vote on Judge Claiborne's motion, but it later voted to convict him. 132 Cong. Rec. S15,760-62 (daily ed. Oct. 9, 1986). The Senate thus agreed with the House that private improprieties could be, and were in this instance, impeachable offenses.

The Claiborne case makes clear that perjury, even if it relates to a matter wholly separated from a federal officer's official duties -- a judge's personal tax returns -- is an impeachable offense. Judge Nixon's false statements were also in regard to a matter distinct from his official duties. In short, the Senate's own precedents establish that misconduct need not be in one's official capacity to warrant removal.

CONCLUSION

This is a defining moment for the Presidency as an institution, because if the President is not convicted as a consequence of the conduct that has been portrayed, then no House of Representatives will ever be able to impeach again and no Senate will ever convict. The bar will be so high that only a

convicted felon or a traitor will need to be concerned.

Experts pointed to the fact that the House refused to impeach President Nixon for lying on an income tax return. Can you imagine a future President, faced with possible impeachment, pointing to the perjuries, lies, obstructions, and tampering with witnesses by the current occupant of the office as not rising to the level of high crimes and misdemeanors? If this is not enough, what is? How far can the standard be lowered without completely compromising the credibility of the office for all time?

Dated: January 11, 1999

**IN THE SENATE OF THE UNITED STATES
Sitting as a Court of Impeachment**

In Re)
)
Impeachment of)
President William Jefferson Clinton)

**Appendix to Trial Memorandum
of the Managers
Appointed by the U.S. House of Representatives**

**The United States
House of Representatives**

**HENRY J. HYDE
F. JAMES SENSENBRENNER, JR.
BILL McCOLLUM
GEORGE W. GEKAS
CHARLES T. CANADY
STEPHEN E. BUYER
ED BRYANT
STEVE CHABOT
BOB BARR
ASA HUTCHINSON
CHRIS CANNON
JAMES E. ROGAN
LINDSEY O. GRAHAM**

Managers on the Part of the House

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**THE PRESIDENT'S CONTACTS ALONE WITH
LEWINSKY**

Lewinsky White House Employee (7/95-4/96)

1995

**11/15/95 The President meets alone twice with Lewinsky
(Wed) in Oval Office study and hallway outside the Oval
Office. (Sexual Encounter)**

**11/17/95 The President meets alone twice with Lewinsky
(Fri) in The President's private bathroom outside the
Oval Office study. (Sexual Encounter)**

**12/5/95 The President meets alone with Lewinsky in the
(Tues) Oval Office and study. (No Sexual Encounter)**

**12/31/95 The President meets alone with Lewinsky in the
(Sun) Oval Office and Oval Office study. (Sexual
Encounter)**

**THE PRESIDENT'S CONTACTS ALONE WITH
LEWINSKY****Lewinsky White House Employee (7/95-4/96)****1996**

1/7/96 (Sun)	The President meets alone with Lewinsky in the bathroom outside the Oval Office study. (Sexual Encounter)
1/21/96 (Sun)	The President meets alone with Lewinsky in the hallway outside the Oval Office study. (Sexual Encounter)
2/4/96 (Sun)	The President meets alone with Lewinsky in the Oval Office study and in the adjacent hallway. (Sexual Encounter)
2/19/96 (Mon)	The President meets alone with Lewinsky in the Oval Office. (No Sexual Encounter)
3/31/96 (Sun)	The President meets alone with Lewinsky in hallway outside the Oval Office. (Sexual Encounter)
4/7/96 (Sun)	The President meets alone with Lewinsky in the hallway outside the Oval Office study and in the Oval Office study. (Sexual Encounter)

Chart A

**THE PRESIDENT'S CONTACTS ALONE WITH
LEWINSKY**
Lewinsky Employed at the Pentagon (4/96-)
1997

2/28/97 (Fri)	The President meets alone with Lewinsky in the Oval Office private bathroom. (Sexual Encounter)
3/29/97 (Sat)	The President meets alone with Lewinsky in the Oval Office study. (Sexual Encounter)
5/24/97 (Sat)	The President meets alone with Lewinsky in the Oval Office dining room, study and hallway. (No Sexual Encounter)
7/4/97 (Fri)	The President meets alone with Lewinsky in the Oval Office study and hallway. (No Sexual Encounter)
7/14/97 (Mon)	The President meets alone with Lewinsky in Heinrich's office. (No Sexual Encounter)
7/24/97 (Sat)	The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)
8/16/97 (Sat)	The President meets alone with Lewinsky in the Oval Office study. (Sexual Encounter)
10/11/97 (Sat)	The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)
11/13/97 (Thurs)	The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)
12/6/97 (Sat)	The President meets alone with Lewinsky in the Oval Office area. (No Sexual Encounter)
12/28/97 (Sun)	The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)

Chart A

Chart B

THE PRESIDENT'S TELEPHONE CONTACTS**WITH LEWINSKY**

1/7/96 (Sun)	Conversation - first call to ML's home.
1/7/96 (Sun)	Conversation - ML at office.
1/15 or 1/16/96 (Mon or Tue)	Conversation, approx. 12:30 a.m. - ML at home.*
Approx. 1/28/96 (Sun)	Caller ID on ML's office phone indicated POTUS call.
1/30/96 (Tues)	Conversation - during middle of workday at ML's office.
2/4/96 (Sun)	Conversations - ML at office - multiple calls.
2/7 or 2/8/96 (Wed or Thur)	Conversation - ML at home.
2/8/ or 2/9/96 (Thur or Fri)	Conversation - ML at home.*
2/19/96 (Mon)	Conversation - ML at home.
Approx. 2/28 2/28 or 3/5/9	Conversation - approx. 20 min. - after chance meeting in hallway - ML at home.
3/26/96 (Tues)	Conversation - approx. 11 a.m. - ML at office.

Chart B

3/29/96	Conversation - ML at office - approx. 8 p.m. - invitation to movie.
3/31/96	Conversation - ML at office - approx. 1 p.m. - Pres. ill.
4/7/96 (Easter Sunday)	Conversation - ML at home.
4/7/96 (Easter Sunday)	Conversation - ML at home - why ML left.
4/12/96 (Fri)	Conversation - ML at home - daytime.
4/12 or 4/13/96 (Fri or Sat)	Conversation - ML at home - after midnight.
4/22/96 (Mon)	Conversations - job talk - ML at home.
4/29 or 4/30/96 (Mon or Tues)	Message - after 6:30 a.m.
5/2/96 (Thur)	Conversation - ML at home.*
5/6/96 (Mon)	Possible phone call.
5/16/96 (Thur)	Conversation - ML at home.
5/21/96 (Tues)	Conversation - ML at home.*
5/31/96 (Fri)	Message.
6/5/96 (Wed)	Conversation - ML at home - early evening.
6/23/96 (Sun)	Conversation - ML at home.*
7/5 or 7/6/96 (Fri or Sat)	Conversation - ML at home.*
7/19/96 (Fri)	Conversation - 6:30 a.m. - ML at home.*

Chart B

7/28/96 (Sun)	Conversation - ML at home.
8/4/96 (Sun)	Conversation - ML at home.*
8/24/96 (Sat)	Conversation - ML at home.*
9/5/96 (Thur)	Conversation - Pres. In Fla - ML at home.*
9/10/96 (Tues)	Message.
9/30/96 (Mon)	Conversation.*
10/22/96 (Tues)	Conversation - ML at home.*
10/23 or 10/24/96 (early am)	Conversation - ML at home.
12/2/96 (Mon)	Conversation - approx. 10-15 min. - ML at home.
12/2/96 (Mon)	Conversation - later that evening - ML at home - approx. 10:30 p.m. - Pres fell asleep.*
12/18/96 (Wed)	Conversation - approx. 5 min. - 10:30 p.m. - ML at home.
12/30/96 (Mon)	Message.
1/12/97 (Sun)	Conversation - job talk - ML at home.*
2/8/97 (Sat)	Conversation - ML at home - mid-day - 11:30-12:00.
2/8/97 (Sat)	Conversation - job talk - 1:30 or 2:00 p.m. - ML at home.*
3/12/97 (Wed)	Conversation - three minutes - ML at work.
4/26/97 (Sat)	Conversation - late afternoon - 20 min. - ML at home.
5/17/97 (Sat)	Conversations - multiple calls.

Chart B

5/18/97 (Sun)	Conversations - multiple calls.
7/15/97 (Tues)	Conversation - ML at home.
8/1/97 (Fri)	Conversation.
9/30/97 (Tues)	Conversation.*
10/9 or 10/10/97 (Thur or Fri)	Conversation - long, from 2 or 2:30 a.m. until 3:30 or 4:00 a.m. - job talk - argument - ML at home.
10/23/97 (Thur)	Conversation - ML at home - end b/c HRC.
10/30/97 (Thur)	Conversation - ML at home - interview prep.
11/12/97 (Wed)	Conversation - discuss re: ML visit.*
12/6/97 (Sat)	Conversation - approx. 30 min - ML at home.
12/17 or 12/18/97 (Wed or Thur)	Conversation - b/t 2:00 a.m. and 3:00 a.m. - ML at home - witness list.
1/5/98 (Mon)	Conversation.

* Conversation that involved and may have involved phone sex.

LEWINSKY GIFTS TO THE PRESIDENT

10/24/95	Lewinsky (before the sexual relationship began) gives her first gift to The President of a matted poem given by her and other White House interns to commemorate "National Boss' Day". It is the only gift The President sent to the archives instead of keeping.
11/20/95	Lewinsky gives The President a Zegna necktie.
3/31/96	Lewinsky gives The President a Hugo Boss Tie.
Christmas 1996	Lewinsky gives The President a Sherlock Holmes game and a glow in the dark frog.
Before 8/16/96	Lewinsky gives The President a Zegna necktie and a t-shirt from Bosnia.
Early 1997	Lewinsky gives The President <i>Oy Ve</i>, a small golf book, golf balls, golf tees, and a plastic pocket frog.
3/97	Lewinsky gives The President a care package after he injured his leg including a metal magnet with The Presidential seal for his crutches, a license plate with "Bill" for his wheelchair, and knee pads with The Presidential seal.
3/29/97	Lewinsky gives The President her personal copy of <i>Vox</i>, a book about phone sex, a penny medallion with the heart cut out, a framed Valentine's Day ad, and a replacement for the Hugo Boss tie that had the bottom cut off.
5/24/97	Lewinsky gives The President a Banana Republic casual shirt and a puzzle on gold mysteries.

Chart C

7/14/97	Lewinsky gives The President a wooden B with a frog in it from Budapest.
Before 8/16/97	Lewinsky gives The President <i>The Notebook</i>.
8/16/97	Lewinsky gives The President an antique book on <i>Peter the Great</i>, the card game "Royalty", and a book, <i>Disease and Misrepresentation</i>.
10/21/97 or 10/22/97	Lewinsky gives The President a Calvin Klein tie, and pair of sunglasses.
10/97	Lewinsky gives The President a package Before filled with Halloween-related items, such as a Halloween pumpkin lapel pin, a wooden letter opener with a frog on the handle, and a plastic pumpkin filled with candy.
11/13/97	Lewinsky gives The President an antique paperweight that depicted the White House .
12/6/97	Lewinsky gives The President <i>Our Patriotic President: His Life in Pictures, Anecdotes, Sayings, Principles and Biography</i>; an antique standing cigar holder; a Starbucks Santa Monica mug; a Hugs and Kisses box; and a tie from London.
12/28/97	Lewinsky gives The President a hand-painted Easter Egg and "gummy boobs" from Urban Outfitters.
1/4/98	Lewinsky gives Currie a package with her final gift to The President containing a book entitled <i>The Presidents of the United States</i> and a love note inspired by the movie Titanic.

THE PRESIDENT'S GIFTS TO LEWINSKY

12/5/95	The President gives Lewinsky an autographed photo of himself wearing the Zegna necktie she gave him.*
2/4/96	The President gives Lewinsky a signed "State of the Union" Address.*
3/31/96	The President gives Lewinsky cigars.
2/28/97	The President gives Lewinsky a hat pin*, "Davidoff" cigars, and the book <i>the Leaves of Grass</i> by Walt Whitman as belated Christmas gifts.
	The President gives Lewinsky a gold brooch.*
	The President gives Lewinsky an Annie Lennox compact disk.
	The President gives Lewinsky a cigar.
7/24/97	The President gives Lewinsky an antique flower pin in a wooden box, a porcelain object d'art, and a signed photograph of the President and Lewinsky.*
Early 9/97	The President brings Lewinsky several Black Dog items, including a baseball cap*, 2 T-shirts*, a hat and a dress.*
12/28/97	The President gives Lewinsky the largest number of gifts including: <ul style="list-style-type: none">1. a large Rockettes blanket*,2. a pin of the New York skyline*,3. a marblelike bear's head from Vancouver*,4. a pair of sunglasses*,5. a small box of cherry chocolates,6. a canvas bag from the Black Dog*,7. a stuffed animal wearing a T-shirt from the Black Dog.*

(*denotes those items Lewinsky produced to the OIC on 7/29/98).

Chart D

JUL -14' 98(TUE) 14:02 RADER, CAMPBELL

TEL:214 630 9996

P. 005

DEC. -05' 97(FRI) 16:57 RADER, CAMPBELL

TEL:214 630 9996

P. 00

TRANSACTION REPORT

Breakout:
Transactional completed

NO.	TX DATE/TIME	DESTINATION	DURATION	PGS.	RESULT	MODE
797	DEC. 5 16:40	202 393 5760	0' 03' 29"	019	OK	N ECM
	16:44	[REDACTED]	0' 03' 30"	019	OK	N ECM
	16:48	[REDACTED]	0' 04' 26"	019	OK	N ECM
	16:52	[REDACTED]	0' 04' 26"	019	OK	N ECM

RADER, CAMPBELL, FISHER & PYKE
(A PROFESSIONAL CORPORATION)
STEDMAN PLACE, SUITE 1080
2777 STEDMAN FREEWAY
DALLAS, TEXAS 75207

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Kathlyn Graves, Esq.
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TELECOPY NO. [REDACTED]
TELECOPY NO. [REDACTED]

FROM ATTORNEY/SENDER: T. Wesley Holmes

1408-DC-00000005

COMMENTS:

Chart E

Lewinsky Subpoena
Jones v. Clinton
December 19, 1997

Chart F

The *Jones v. Clinton* subpoena to Lewinsky called for:

- 1) Her testimony on January 23, 1998 at 9:30 a.m.;
- 2) Production of "each and every gift including but not limited to, any and all dresses, accessories, and jewelry, and/or hat pins given to you by, or on behalf of, Defendant Clinton;" and
- 3) "Every document constituting or containing communications between you and Defendant Clinton, including letters, cards, notes, memoranda and all telephone records."

**December 19, 1997
(Friday)**

**LEWINSKY IS SERVED WITH A SUBPOENA IN
*Jones v. Clinton***

1:47 p.m.- 1:48 p.m.	Lewinsky telephones Jordan's office.
3:00 p.m.- 4:00 p.m.	Lewinsky is served with a subpoena in <i>Jones v. Clinton</i>.
—	Lewinsky telephones Jordan immediately about subpoena.
3:51 p.m.- 3:52 p.m.	Jordan telephones The President and talks to Debra Schiff.
4:17 p.m.- 4:20 p.m.	Jordan telephones White House Social Office.
4:47 p.m.	Lewinsky meets Jordan and requests that Jordan notify The President about her subpoena.
5:01 p.m.- 5:05 p.m.	The President telephones Jordan; Jordan notifies The President about Lewinsky's subpoena.
5:06 p.m.	Jordan telephones attorney Carter to represent Lewinsky.
Later that Evening	The President meets alone with Jordan at the White House.

Chart G

Chart H

DECEMBER 23, 1997***Jones v. Clinton* INTERROGATORY NO. 10**

INTERROGATORY NO. 10: Please state the name, address, and telephone number of each and every individual (other than Hillary Rodham Clinton) with whom you had sexual relations when you held any of the following positions:

- a. Attorney General of the State of Arkansas;
- b. Governor of the State of Arkansas;
- c. President of the United States.

(Court modifies scope to incidents from May 8, 1986 to the present involving state or federal employees.)

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10 (as modified by direction of the Court): None.

Chart I

DECEMBER 23, 1997

***Jones v. Clinton* INTERROGATORY NO. 11**

INTERROGATORY NO. 11: Please state the name, address, and telephone number of each and every individual (other than Hillary Rodham Clinton) with whom you sought to have sexual relations, when you held any of the following positions:

- a. Attorney General of the State of Arkansas;
 - b. Governor of the State of Arkansas;
 - c. President of the United States.
- (Court modifies scope to incidents from May 8, 1986 to the present involving state or federal employees.)

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11 (as modified by direction of the Court): **None.**

**DECEMBER 28, 1997
(Sunday)
THE PRESIDENT'S FINAL MEETING WITH LEWINSKY
AND
THE CONCEALMENT OF THE GIFTS TO LEWINSKY**

- 8:16 a.m.** **Lewinsky meets The President at the White House at Currie's direction.**
- **The President gives Lewinsky numerous gifts.**
 - **The President and Lewinsky discuss the subpoena, calling for, among other things, the hat pin. The President acknowledges "that sort of bothered [him] too."**
 - **Lewinsky states to The President: "Maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty [Currie]."**
- 3:32 p.m.** **Currie telephones Lewinsky at home from Currie's cell phone.**
- "I understand you have something to give me."**
- Or**
- "The President said you have something to give me."**
- Later that Day** **Currie picks up gifts from Lewinsky.**

Chart J

PAGE 138

INVOICE NO: 0152183136
INVOICE DATE: JANUARY 01, 1998

PHONE USER NAME:

CUSTOMER ACCOUNT NO: 601423615-00001
MOBILE TELEPHONE NO: 202-395-1831

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LONG DISTANCE SERVICE PROVIDED BY: KAN

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**LIATIME
MOUNT**

1070-DC-000000007

Chart L

**THE PRESIDENT'S STATEMENTS
ABOUT CONCEALING GIFTS**

12/28/97

“[Lewinsky]:And then at some point I said to him [The President], ‘Well, you know, should I--maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.’ And he sort of said--I think he responded, ‘I don’t know’ or ‘Let me think about that.’ And left that topic.”

(Lewinsky Grand Jury 8/6/98 Tr. 152)



DRAFT

AFFIDAVIT OF JANE DOE

1. My name is Jane Doe # . I am 24 year old and currently reside at 700 New Hampshire Avenue, N.W., Washington, D.C. 20037.
2. On December 19, 1997, I was served with a subpoena from the plaintiff to give a deposition and to produce documents in the lawsuit filed by Paula Corbin Jones against President William Jefferson Clinton and Danny Ferguson.
3. I can not fathom any reason that the plaintiff would seek information from me for her case.
4. I have never met Ms. Jones, nor do I have any information regarding the events she alleges occurred at the Excelsior Hotel on May 8, 1991 or any other information concerning any of the allegations in her case.
5. I worked at the White House in the summer of 1995 as a White House intern. Beginning in December, 1995, I worked in the Office of Legislative Affairs as a staff assistant for correspondence. In April, 1996, I accepted a job as ^{correspondent} Assistant to the Assistant Secretary for Public Affairs at the U.S. Department of Defense. I maintained that job until December 28, 1997. I am currently unemployed but seeking a new job.
6. In the course of my employment at the White House, I met President Clinton on several occasions. I do not recall ever being alone with the President, although it is possible that while working in the White House Office of Legislative Affairs I may have presented him with a letter for his signature while no one else was present. This would have lasted only a matter of minutes and would not have been a private meeting, that is not behind closed doors.
7. I have the utmost respect for the President who has always behaved appropriately in my presence.
8. I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any other person who had a sexual relationship with the President, was offered employment or other benefits in exchange for a sexual

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Chart M

DRAFT

relationship, or was denied employment or other benefits for rejecting a sexual relationship. The occasions that I saw the President, with crowds of other people, after I left my employment at the White House in April, 1996 related to official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. ~~There were other people present on all of these occasions.~~

9. Since I do not possess any information that could possibly be relevant to the allegations made by Paula Jones or lead to admissible evidence in this case, I asked my attorney to provide this affidavit to plaintiff's counsel. Requiring my deposition in this matter would cause unwarranted attorney's fees and costs, disruption to my life, especially since I am looking for employment, and constitute an invasion of my right to privacy.

I declare under the penalty of perjury that the foregoing is true and correct.

MONICA S. LEWINSKY

DRAFT

DISTRICT OF COLUMBIA, ss:

MONICA S. LEWINSKY, being first duly sworn on oath according to law, deposes and says that she has read the foregoing AFFIDAVIT OF JANE DOE # by her subscribed, that the matters stated herein are true to the best of her information, knowledge and belief.

MONICA S. LEWINSKY

SUBSCRIBED AND SWORN to before me this _____ day of _____, 1998.

NOTARY PUBLIC, D.C.
My Commission expires: _____

Chart N

Final Affidavit of Jane Doe #6 [Lewinsky]
1/7/98

8. I have never had a sexual relationship with The President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any other person who had a sexual relationship with The President, was offered employment or other benefits in exchange for a sexual relationship, or was denied employment or other benefits for rejecting a sexual relationship. The occasions that I saw The President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

LEWINSKY'S AFFIDAVIT GETS FILED

(1/14/98 - 1/17/98)

Chart O

<p>7:45 p.m. —</p>	<p style="text-align: center;">January 14, 1998 (Wednesday)</p> <p>Bennett's firm (Sexton) leaves Carter telephone message. Carter faxes signed affidavit to Bennett's firm.</p>
<p>9:17 a.m. 12:59 p.m. — — — —</p>	<p style="text-align: center;">January 15, 1998 (Thursday)</p> <p>Sexton leaves Carter telephone message. Sexton leaves Carter telephone message. Currie called by Newsweek. Lewinsky drives Currie to meet Jordan. Sexton telephones Carter: <u>"STILL ON TIME?"</u> Carter telephones Court Clerk for Saturday (1/17/98) Filing of Affidavit and motion to quash.</p>
<p>2 a.m. (Approx.)</p>	<p style="text-align: center;">January 16, 1998 (Friday)</p> <p>Carter completes motion to quash Lewinsky's deposition. Carter sends by overnight mail motion to quash and affidavit to Bennett's firm and to the Court. Sexton message to Carter: "Please call."</p>
<p>11:30 a.m. — —</p>	<p style="text-align: center;">January 17, 1998 (Saturday)</p> <p>Lewinsky Affidavit is submitted to the Court. The President is deposed.</p>

**MISSION ACCOMPLISHED:
LEWINSKY SIGNS AFFIDAVIT
AND
GETS A NEW YORK JOB
(1/5/98 - 1/9/98)**

The President

Vernon Jordan

Betty Currie

January 5, 1998

**Lewinsky meets with attorney Carter for an hour;
Carter drafts an Affidavit for Lewinsky in an attempt
to avert her deposition testimony in *Jones v. Clinton*
scheduled for January 23, 1998.**

**Lewinsky telephones Currie stating that she needs to
speak to The President about an important matter;
specifically that she was anxious about something
she needed to sign- an Affidavit.**

**The President returns Lewinsky's call; Lewinsky
mentions the Affidavit she'd be signing; Lewinsky
offers to show the Affidavit to The President who
states that he doesn't need to see it because he has
already seen about fifteen others.**

Chart P

**MISSION ACCOMPLISHED:
LEWINSKY SIGNS AFFIDAVIT
AND
GETS A NEW YORK JOB
(1/5/98 - 1/9/98)
January 6, 1998**

•The President

•Vernon Jordan

•Betty Currie

11:32 a.m. Carter pages Lewinsky: "Please call Frank Carter."

Lewinsky meets Carter and receives draft Affidavit.

**2:08 p.m.-
2:10 p.m.** Jordan calls Lewinsky. Lewinsky delivers draft Affidavit to Jordan.

3:14 p.m. Carter again pages Lewinsky: "Frank Carter at [telephone number] will see you tomorrow morning at 10:00 in my office."

**3:26 p.m.-
3:32 p.m.** Jordan telephones Carter.

3:38 p.m. Jordan telephones Nancy Hemreich, Deputy Assistant to The President.

3:48 p.m. Jordan telephones Lewinsky.

3:49 p.m. Jordan telephones Lewinsky to discuss draft Affidavit. Both agree to delete implication that she had been alone with The President.

**4:19 p.m.
4:32 p.m.** The President telephones Jordan.

4:32 p.m. Jordan telephones Carter.

**4:34 p.m.-
4:37 p.m.** Jordan again telephones Carter.

**5:15 p.m.-
5:19 p.m.** Jordan telephones White House.

Chart P

**MISSION ACCOMPLISHED:
LEWINSKY SIGNS AFFIDAVIT
AND
GETS A NEW YORK JOB
(1/5/98 - 1/9/98)**

January 7, 1998

9:26 a.m.- 9:29 a.m.	Jordan telephones Carter.
10:00 a.m.	Lewinsky signs false Affidavit at Carter's Office.
—	Lewinsky delivers signed Affidavit to Jordan.
11:58 a.m.- 12:09 p.m.	Jordan telephones the White House.
5:46 p.m.- 5:56 p.m.	Jordan telephones the White House (Hernreich's Office).
6:50 p.m.- 6:54 p.m.	Jordan telephones the White House and tells The President that Lewinsky signed an Affidavit.

**MISSION ACCOMPLISHED:
LEWINSKY SIGNS AFFIDAVIT
AND
GETS A NEW YORK JOB
(1/5/98 - 1/9/98)
January 8, 1998**

9:21 a.m.	Jordan telephones the White House Counsel's Office.
9:21 a.m.	Jordan telephones the White House.
—	Lewinsky interviews in New York at MacAndrews & Forbes Holdings, Inc. (MFH)
11:50 a.m.- 11:51 a.m.	Lewinsky telephones Jordan.
3:09 p.m.- 3:10 p.m.	Lewinsky telephones Jordan.
4:48 p.m.- 4:53 p.m.	Lewinsky telephones Jordan and advises that the New York MFH interview went "Very Poorly."
4:54 p.m.	Jordan telephones Ronald Perelman in New York, CEO of Revlon (subsidiary of MFH) "to make things happen...if they could happen."
4:56 p.m.	Jordan telephones Lewinsky stating "I'm doing the best I can to help you out."
6:39 p.m.	Jordan telephones White House Counsel's Office (Cheryl Mills), possibly about Lewinsky.
Evening	Revlon in New York telephones Lewinsky to set up a follow-up interview.
9:02 p.m.- 9:03 p.m.	Lewinsky telephones Jordan about Revlon interview in New York.

Chart P

**MISSION ACCOMPLISHED:
LEWINSKY SIGNS AFFIDAVIT
AND
GETS A NEW YORK JOB
January 9, 1998**

— Lewinsky interviews in New York with Senior V.P. Seidman of MacAndrews & Forbes and two Revlon individuals.

Lewinsky offered Revlon job in New York and accepts.

1:29 p.m. Lewinsky telephones Jordan.

1:29 p.m. Lewinsky telephones Jordan.

4:14 p.m. Lewinsky telephones Jordan to say that Revlon offered her a job in New York.

Jordan notifies Currie: "Mission Accomplished" and requests she tell The President.

Jordan notifies The President of Lewinsky's New York job offer. The President replies "Thank you very much."

4:37 p.m. Lewinsky telephones Carter.

5:04 p.m. Lewinsky telephones Jordan.

5:05 p.m. Lewinsky telephones Currie.

5:08 p.m. The President telephones Currie.

5:09 p.m. Lewinsky telephones Jordan.

5:11 p.m.

5:12 p.m. Currie telephones The President.

5:18 p.m. Jordan telephones Lewinsky.

5:20 p.m.

5:21 p.m. Lewinsky telephones Currie.

5:26 p.m.

Chart P

Chart Q

THE PRESIDENT'S INVOLVEMENT WITH LEWINSKY JOB SEARCH

“Q Why are you trying to tell someone at the White House that this has happened [Carter had been fired]?”

[Jordan]: Thought they had a right to know.

Q Why?

[Jordan]: The President asked me to get Monica Lewinsky a job. I got her a lawyer. The Drudge Report is out and she has new counsel. I thought that was information that they ought to have....”

(Jordan Grand Jury 6/9/98 Tr. 45-46)

“Q Why did you think the President needed to know that Frank Carter had been replaced?”

[Jordan]: Information. He knew that I had gotten her a job, he knew that I had gotten her a lawyer. Information. He was interested in this matter. He is the source of it coming to my attention in the first place....”

(Jordan Grand Jury 6/9/98 Tr. 58-59)

Chart R

JORDAN'S PRE-WITNESS LIST

JOB SEARCH EFFORTS

"[Jordan]: I have no recollection of an early November meeting with Ms. Monica Lewinsky. I have absolutely no recollection of it and I have no record of it." (Jordan Grand Jury 3/3/98 Tr. 50)

"Q Is it fair to say that back in November getting Monica Lewinsky a job on any fast pace was not any priority of yours?

[Jordan]: I think that's fair to say." (Jordan Grand Jury 5/5/98 Tr. 76)

"[Lewinsky]: [Referring to 12/6/97 meeting with the President]. I think I said that ... I was suppose to get in touch with Mr. Jordan the previous week and that things did not work out and that nothing had really happened yet [on the job front].

Q Did the President say what he was going to do?

[Lewinsky]: I think he said he would--you know, this was sort of typical of him, to sort of say, 'Oh, I'll talk to him. I'll get on it.'" (Lewinsky Grand Jury 8/6/98 Tr. 115-116)

"Q But what is also clear is that as of this date, December 11th, you are clear that at that point you had made a decision that you would try to make some calls to help get her a job.

[Jordan]: There is no question about that." (Jordan Grand Jury 5/5/98 Tr. 95)

January 17, 1998
Saturday

• The President
• Vernon Jordan
• Betty Currie

Chart S

- 4:00 p.m. **THE PRESIDENT finishes testifying under (approx.) oath in *Jones v. Clinton, et al.***
- 5:19 p.m. **Jordan telephones White House.**
- 5:38 p.m. **THE PRESIDENT telephones Jordan at home.**
- 7:02 p.m. **THE PRESIDENT telephones Currie at home but does not speak with her.**
- 7:02 p.m. **THE PRESIDENT places a call to Jordan's office.**
- 7:13 p.m. **THE PRESIDENT telephones Currie at home and asks her to meet with him on Sunday.**

January 18, 1998 Sunday

• The President
• Vernon Jordan
• Betty Currie

Chart S

- 6:11 a.m. Drudge Report Released.
- -----
- 11:49 a.m. Jordan telephones the White House.
- 12:30 p.m. Jordan has lunch with Bruce Lindsey. Lindsey informs Jordan about the Drudge Report and [Tripp] tapes.
- 12:50 p.m. THE PRESIDENT telephones Jordan at home.
- 1:11 p.m. THE PRESIDENT telephones Currie at home.
- 2:15 p.m. Jordan telephones the White House.
- 2:55 p.m. Jordan telephones THE PRESIDENT.
- 5:00 p.m. THE PRESIDENT meets with Currie, concerning his contacts with Lewinsky.
- 5:12 p.m. Currie pages Lewinsky: "Please call Kay at home."

Chart S

- 6:22 p.m. Currie pages Lewinsky: "Please call Kay at home."
- 7:06 p.m. Currie pages Lewinsky: "Please call Kay at home."
- 7:19 p.m. Jordan telephones Cheryl Mills, White House Counsel's Office.
- 8:28 p.m. Currie pages Lewinsky: "Call Kay."
- 10:09 p.m. Lewinsky telephones Currie at home.
- 11:02 p.m. THE PRESIDENT telephones Currie at home and asks if she reached Lewinsky.

January 19, 1998 Monday-Martin Luther King Day

• The President
• Vernon Jordan
• Betty Currie

- 7:02 a.m. Currie pages Lewinsky: "Please call Kay at home at 8:00 this morning."
- 8:08 a.m. Currie pages Lewinsky: "Please call Kay."
- 8:33 a.m. Currie pages Lewinsky: "Please call Kay at home."
- 8:37 a.m. Currie pages Lewinsky: "Please call Kay at home. It's a social call. Thank you."
- 8:41 a.m. Currie pages Lewinsky: "Kay is at home. Please call."
- 8:43 a.m. Currie telephones The President from home to say she has been unable to reach Lewinsky.
- 8:44 a.m. Currie pages Lewinsky: "Please call Kate re: family emergency."
- 8:50 a.m. THE PRESIDENT telephones Currie at home.
- 8:51 a.m. Currie pages Lewinsky: "Msg. From Kay. Please call, have good news."
- 8:56 a.m. THE PRESIDENT telephones Jordan at home.
- 10:29 a.m. Jordan telephones the White House from his office.
- 10:35 a.m. Jordan telephones Nancy Hemreich at the White House.

(Page 5)

Chart S

- 10:36 a.m. Jordan pages Lewinsky: "Please call Mr. Jordan at [number redacted]."
- 10:44 a.m. Jordan telephones Erskine Bowles at the White House.
- 10:53 a.m. Jordan telephones Carter.
- 10:58 a.m. THE PRESIDENT telephones Jordan at his office.
- 11:04 a.m. Jordan telephones Bruce Lindsey at the White House.
- 11:16 a.m. Jordan pages Lewinsky: "Please call Mr. Jordan at [number redacted]."
- 11:17 a.m. Jordan telephones Lindsey at the White House.
- 12:31 p.m. Jordan telephones the White House from a cellular phone.
- — Jordan lunches with Carter.
- 1:45 p.m. THE PRESIDENT telephones Currie at home.
- 2:29 p.m. Jordan telephones the White House from a cellular phone.
- 2:44 p.m. Jordan enters the White House and over the course of an hour meets with THE PRESIDENT, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, Rahm Emanuel and others.
- 2:46 p.m. Carter pages Lewinsky: "Please call Frank Carter at [number redacted]."
- 4:51 p.m. Jordan telephones Currie at home.
- 4:53 p.m. Jordan telephones Carter at home.

Chart S

- 4:54 p.m. Jordan telephones Carter at his office. Carter informs Jordan that Lewinsky has replaced Carter with a new attorney.
- 4:58 p.m. Jordan telephones Lindsey, White House Counsel's Office.
- 4:59 p.m. Jordan telephones Mills, White House Counsel's Office.
- 5:00 p.m. Jordan telephones Lindsey, White House Counsel's Office.
- 5:00 p.m. Jordan telephones Ruff, White House Counsel's Office.
- 5:05 p.m. Jordan telephones Lindsey, White House Counsel's Office.
- 5:05 p.m. Jordan again telephones Lindsey, White House Counsel's Office.
- 5:05 p.m. Jordan telephones the White House.
- 5:09 p.m. Jordan telephones Mills, White House Counsel's Office.
- 5:14 p.m. Jordan telephones Carter concerning his termination as Lewinsky's attorney.
- 5:22 p.m. Jordan telephones Lindsey, White House Counsel's Office.
- 5:22 p.m. Jordan telephones Mills, White House Counsel's Office.
- 5:55 p.m. Jordan telephones Currie at home.
- 5:56 p.m. THE PRESIDENT telephones Jordan at his office; Jordan informs The President that Carter was fired.
- 6:04 p.m. Jordan telephones Currie at home.
- 6:26 p.m. Jordan telephones Stephen Goodin, an aide to THE PRESIDENT.

Chart 1

**THE PRESIDENT'S POST-DEPOSITION
STATEMENTS TO CURRIE**

1/18/98

- "I was never really alone with Monica, right?"
- "You were always there when Monica was there, right?"
- "Monica came on to me, and I never touched her, right?"
- "You could see and hear everything, right?"
- "She wanted to have sex with me, and I cannot do that."

(Currie Grand Jury 7/22/98 Tr. 6-7;
Currie Grand Jury 1/27/98 Tr. 70-75)

Chart U

THE PRESIDENT'S DENIALS**1/21/98**

"And it was at that point that he gave his account of what had happened to me [sic] and he said that Monica - and it came very fast. He said, 'Monica Lewinsky came at me and made a sexual demand on me.' He rebuffed her. He said, 'I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again.'

She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be the stalker any more."

(Blumenthal Grand Jury 6/4/98 Tr. 49)

"And he said, 'I feel like a character in a novel. I feel like somebody who is surrounded by an oppressive force that is creating a lie about me and I can't get the truth out. I feel like the character in the novel Darkness at Noon.'

And I said to him, I said, 'When this happened with Monica Lewinsky, were you alone?' He said, 'Well, I was within eyesight or earshot of someone.'"

(Blumenthal Grand Jury 6/4/98 Tr. 50)

"Q Okay. Share that with us.

A Well, I think he said - he said that - there was some spate of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever -

Q Okay.

A - that they had not had oral sex"

(John Podesta Grand Jury 6/16/98 Tr. 92)

"And I said, 'They're just too shocked by this. It's just too new, it's too raw.' And I said, 'And the problem is they're willing to forgive you [The President] for adultery, but not for perjury or obstruction of justice or the various other things.'"

(Dick Morris Grand Jury 8/18/98 Tr. 10, 12, 20)

"And I said, 'They're just not ready for it,' meaning the voters.'

And he [The President] said, 'Well, we just have to win, then.'"

(Dick Morris Grand Jury 8/18/98 Tr. 30)

Chart W

“TALKING POINTS”*

January 24, 1998

**** ***

“Q: Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?”

“A: Of course it would.”

**** ***

***Produced by the White House pursuant to OLC Subpoena**

Chart X

**THE PRESIDENT CLAIMS
HE WAS TRUTHFUL WITH AIDES**

[President]: And so I said to them things that were true about this relationship. That I used – in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course.

But I also didn't want to do anything to complicate this matter further. So I said things that were true. They may have been misleading, and if they were I have to take responsibility for it, and I'm sorry.

(The President Grand Jury 8/17/98 Tr. 106)

Chart Y

GRAND JURY WITNESSES

A person testifying before a federal grand jury has three options under the law:

- 1) To obey the oath and testify to the truth, the whole truth and nothing but the truth;**
- 2) To lie;**
- 3) To assert the Fifth Amendment or another legally recognized privilege.**

Chart 2

PRESIDENT'S STATEMENT GRAND JURY TESTIMONY

"When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th, 1998 deposition. But they did involve inappropriate intimate contact.

These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.

I regret that what began as a friendship came to include this conduct, and I take full responsibility for my actions.

While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters.

I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky; questions about my understanding of the term 'sexual relations', as I understood it to be defined at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses. That, Mr. Bittman, is my statement."

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Exhibits*Telephone records*

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- 5) Summary chart, 1/15/98-1/16/98
- 6) Summary chart, 1/17/98
- 7) Summary chart, 1/18/98
- 8) Summary chart, 1/19/98

Court Documents

- 9) Jones v. Clinton, Jan. 29, 1998 District Court Order regarding discovery
- 10) President Clinton's Answer to First Amended Complaint, Jones v. Clinton
- 11) In re: Sealed Case, Nos. 98-3053 & 3059, U.S. Court of Appeals, District of Columbia
- 12) Jane Doe #6 (Lewinsky) Affidavit filed in Jones v. Clinton
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- 14) 1/18/98 Drudge Report
- 15) Jones' attorneys fax cover sheet of witness list to Bennett
- 16) White House "Talking Points," January 24, 1998
- 17) LA Times 1/25/98 Article regarding White House "Talking Points"
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- 19) President Clinton Grand Jury Tr. 138 L. 16-23 (From GJ Tape 2)
- 20) President Clinton Grand Jury Tr. 100 L. 20-25, Tr. 105 L. 19-25, Tr. 106 L. 1-12 (From GJ Tape 3)
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- 25) President Clinton Deposition Tr. 204 L. 5-14 (From Dep. Tape 8)
- 26) President Clinton Grand Jury Tr. 9-11

EXHIBIT 1

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Telephone Calls

TABLE 31

December 19, 1997

No.	Time	Call From	Call To	Length of Call
1	1:47 PM	Ms. Lewinsky's office, [REDACTED]	Mr. Jordan's office, [REDACTED]	1:50
2	3:51 PM	Mr. Jordan's office, [REDACTED]	President Clinton; talked with Debra Schiff	1:00
3	4:17 PM	Mr. Jordan's office, [REDACTED]	White House Social Office, [REDACTED]	2:42
4	5:01 PM	President Clinton	Mr. Jordan's office, [REDACTED]	4:30 *
5	5:06 PM	Mr. Jordan's office, [REDACTED]	Francis Carter's office, [REDACTED]	1:54

Source Documents

- Call 1: 833-DC-00017890 (Pentagon phone records)
- Call 2: 1178-DC-00000013 (Presidential call log); V004-DC-00000151 (Alkin, Gump, Strauss, Hauer & Feld phone record)
- Calls 3 and 5: V004-DC-00000151 (Alkin, Gump, Strauss, Hauer & Feld phone record)
- Call 4: 1178-DC-00000014 (Presidential call log); V004-DC-00000151 (Alkin, Gump, Strauss, Hauer & Feld phone record)

* Presidential call logs indicate that President Clinton placed a call to Mr. Jordan at 4:57 PM and that they talked from 5:01 PM to 5:06 PM. The best interpretation of the evidence suggests that the call did not end at 5:06 PM. The Presidential call logs are maintained by hand, whereas the automated Alkin, Gump, Strauss, Hauer & Feld phone records reflect that the conversation actually ended at 5:05 PM.

EXHIBIT 2

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INVOICE NO: 0152183136
INVOICE DATE: JANUARY 01, 1998

PHONE USER NAME: .

CUSTOMER ACCOUNT NO: 001423433-00001
MOBILE TELEPHONE NO: 202-395-2833USACE DETAILS FOR 202 395-1831 ON ACTION BPLAN 0938:
LONG DISTANCE SERVICE PROVIDED BY: BW

DATE	TIME	BAND	ORIGINATING LOCATION	CALLS TO	TELEPHONE NUMBER	RATE	AIRTIME MIN	AMOUNT	LANOLINE TYPE	AMOUNT	TOTAL CHARGES
12/11											
12/25	09:41 AM	1	WASHINGTON DC	WASHINGTON DC	202 395-5335	OFFPK	1	0.10	LCL	0.10	0.20
12/27	09:42 AM	1	ARLINGTON VA	WASHINGTON DC		OFFPK	1	0.10	LCL	0.10	0.20
12/27	09:43 AM	1	ARLINGTON VA	WASHINGTON DC		OFFPK	1	0.10	LCL	0.10	0.20
12/27	11:35 AM	1	WASHINGTON DC	MOBILE		OFFPK	1	0.10			0.10
12/27	11:37 AM	1	WASHINGTON DC	INCOMING		OFFPK	2	0.20			0.20
12/28	03:32 PM	1	WASHINGTON VA	WASHINGTON DC		OFFPK	1	0.10	LCL	0.10	0.20
12/31	08:29 PM	1	WASHINGTON DC	ARLINGTON VA		PEAK	4	1.20	LCL	0.10	1.30
12/31	08:52 PM	1	ARLINGTON VA	INCOMING		OFFPK	1	0.10			0.10
12/31	09:52 PM	1	ARLINGTON VA	ARLINGTON CL		OFFPK	1	0.10			0.10
12/31	09:58 PM	1	ARLINGTON VA	INCOMING		OFFPK	2	0.20	LCL	0.10	0.20

TOTAL AIRTIME FOR 202 395-1831 ON ACTION BPLAN 0938:
LONG DISTANCE SERVICE PROVIDED BY: BW

PHONE USER NAME: .

BAND 1
ALL W/B CELLS CALLS | MINUTES USED | AIRTIME AMOUNT |

1070-DC-00000007

THE WHITE HOUSE
WASHINGTON

PRESIDENTIAL CALL LOG

DECEMBER 27, 1997

TIME		NAME	ACTION
PLACED	DISC		

REDACTED

V006-DC-00002063

OUT	AM	11:33	MS. BETTY W. CURRIE CELLULAR PHONE 202-395-1831	TLKD-OK 11:29 A.M.
IN	PM	11:27		


HB 003062

MCIMARCIA LEWIS
Acct 202 965 6353 340 55 May 4 1996

Long Distance continued
Calls from 202-965-6355:

Amount	Place	Number	Date	Time	Rate	Min
\$.81	FF W ANGEL CA		Apr 3	8:03P	*E	7
.11	SAN FRAN CA		6	12:49P	*M	1
.11	PORTLAND OR		6	3:42P	*M	1
.11	SAN FRAN CA		6	3:41P	*M	1
.11	PORTLAND OR		6	3:42P	*M	1
.11	SAN FRAN CA		6	9:10P	*M	1
2.33	FF W ANGEL CA		7	3:08P	*E	20
1.67	THE PLAI VA		7	9:18P	*E	14
.47	THE PLAI VA		7	9:49P	*E	4
.12	BEVERLYH CA		7	9:58P	*E	1
.12	BEVERLYH CA		7	9:58P	*E	1
3.09	KINEI HI		7	9:59P	*E	18
.16	KINEI HI		7	10:17P	*E	1
1.54	KINEI HI		7	10:18P	*E	8

1000-DC-00000767

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MCIMARCIA LEWIS
Acct 202 965 6353 340 55 May 4 1996

Long Distance continued
Calls from 202-965-6355:

Amount	Place	Number	Date	Time	Rate	Min
\$ 1.00	THE PLAI VA		Apr 8	4:53P	*D	5
.12	PORTLAND OR		8	3:01P	*E	1
.12	PORTLAND OR		8	3:01P	*E	1
.12	CANBY OR		8	3:02P	*E	1
2.01	PORTLAND OR		8	3:03P	*E	15
.12	PORTLAND OR		8	3:48P	*E	1
.12	SAN FRAN CA		8	3:54P	*E	1
.12	PORTLAND OR		8	3:58P	*E	1
1.88	FF W ANGEL CA		8	3:59P	*E	17
1.61	PORTLAND OR		8	10:00P	*E	12
3.09	SAN FRAN CA		8	10:17P	*E	23
.63	DIN ASSI NY		8	2:17P	*D	1
3.45	FF NEW YORK NY		8	2:18P	*D	19
.20	NEW YORK NY		8	4:36P	*D	1

1000-DC-00000768

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EXHIBIT 3

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Telephone Calls

TABLE 35

January 6, 1998

No.	Time	Call from	Call to	Length of call
1	11:32 AM	Mr. Carter	Ms. Lewinsky's pager; message reads: "PLEASE CALL FRANK CARTER @ [REDACTED]"	N/A
2	2:08 PM	Mr. Jordan's office, [REDACTED]	Ms. Lewinsky's residence, [REDACTED]	1:48
3	3:14 PM	Mr. Carter	Ms. Lewinsky's pager; message reads: "FRANK CARTER AT [REDACTED] I WILL SEE YOU TOMORROW MORNING AT 10:00 IN MY OFFICE."	N/A
4	3:26 PM	Mr. Jordan's office, [REDACTED]	Mr. Carter, [REDACTED]	6:42
5	3:38 PM	Mr. Jordan's office, [REDACTED]	Ms. Herzlich, White House, [REDACTED]	2:12
6	3:48 PM	Mr. Jordan's office, [REDACTED]	Ms. Lewinsky's residence, [REDACTED]	0:24
7	3:49 PM	Mr. Jordan's office, [REDACTED]	Ms. Lewinsky at Ms. Fierman's residence, [REDACTED]	5:54
8	4:19 PM	President Clinton	Mr. Jordan's office, [REDACTED]	13:00
9	4:32 PM	Mr. Jordan's office, [REDACTED]	Mr. Carter, [REDACTED]	1:06
10	4:34 PM	Mr. Jordan's office, [REDACTED]	Mr. Carter, [REDACTED]	2:30
11	5:15 PM	Mr. Jordan's office, [REDACTED]	White House, [REDACTED]	4:06

Source Documents

Calls 1 and 3: 831-DC-00000010 (Pagemart; all times have been adjusted from Pacific to Eastern Standard Time)

Calls 2, 4, 5, 6, 7, 9, 10, and 11: V004-DC-00000158 (Akin, Gump, Sernus, Hauer & Feld call log)

Call 8: 1178-DC-00000016 (Presidential call log)

EXHIBIT 4

162

Telephone Calls

TABLE 36

January 7, 1998

No.	Time	Call from	Call to	Length of call
1	9:26 AM	Mr. Jordan's office [REDACTED]	Mr. Carter, [REDACTED]	3:30
2	11:58 AM	Mr. Jordan's office [REDACTED]	White House, [REDACTED]	11:36
3	5:46 PM	Mr. Jordan's office, [REDACTED]	Ms. Hennrich, White House, [REDACTED]	10:48
4	6:30 PM	Mr. Jordan's limousine, [REDACTED]	White House, [REDACTED]	4:00

Source Documents

Call 1: V004-DC-00000158 (Akin, Gump, Strauss, Hauer & Feld call logs)

Call 2 and 3: V004-DC-00000159 (Akin, Gump, Strauss, Hauer & Feld call logs)

Call 4: 1033-DC-00000115 (Bell Atlantic Mobile toll records)

EXHIBIT 5

171

Telephone Calls

TABLE 44

January 15, 1998

No.	Time	Call from	Call to	Length of call
1	unknown	Mr. Jordan at St. Regis Hotel, New York, NY	White House, [REDACTED]	unknown
2	unknown	Ms. Currie's office, [REDACTED]	Vernon Jordan's office; message reads: "Betty- POTUS: [REDACTED] KIND OF IMPORTANT"	N/A
3	10:22 AM	Mr. Carter	Ms. Lewinsky's pager; message reads: "PLEASE CALL FRANCIS CARTER @ [REDACTED]"	N/A
4	12:31 PM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY."	N/A
5	1:08 PM	Mr. Carter	Ms. Lewinsky's pager; message reads: "PLEASE CALL FRANK CARTER AT [REDACTED]"	N/A
6	3:02 PM	Mr. Jordan's office, [REDACTED]	Ms. Hennrich, White House, [REDACTED]	1:30
7	3:04 PM	Mr. Jordan's office, [REDACTED]	White House, [REDACTED]	1:54
8	5:16 PM	Mr. Jordan's office, [REDACTED]	White House, [REDACTED]	2:48
9	5:22 PM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY ASAP."	N/A
10	6:45 PM	Mr. Jordan's office, [REDACTED]	Ms. Currie's residence, [REDACTED]	0:12

Source Documents

Call 1: 1065-DC-00000006 (St. Regis Hotel receipt)

Call 2: V005-DC-00000058 (Vernon Jordan's message log)

Calls 3, 4, 5 and 9: 831-DC-00000008 (Pagement)

Calls 6, 7, 8 and 10: V004-DC-00000164 (Akin, Gump, Strauss, Hauer & Feld call logs)

TABLE 45

January 16, 1998

No.	Time	Call from	Call to	Length of call
1	11:17 AM	Mr. Jordan's office, [REDACTED]	Ms. Currie, White House, [REDACTED]	1:24
2	9:41 PM	Mr. Jordan's residence, [REDACTED]	President Clinton	5:00

Source Documents

Call 1: V004-DC-00000164 (Akin, Gump, Strauss, Hauer & Feld call logs)

Call 2: 1178-DC-00000018 (Presidential call log)

EXHIBIT 6

173

Telephone Calls

TABLE 46

January 17, 1998

No.	Time	Call from	Call to	Length of call
1	5:19 PM	Mr. Jordan's mobile phone, [REDACTED]	White House, [REDACTED]	1:00
2	5:38 PM	President Clinton	Mr. Jordan's residence, [REDACTED]	2:00
3	7:02 PM	President Clinton	Mr. Jordan's office, [REDACTED]	2:00
4	7:13 PM	President Clinton	Ms. Currie's residence, [REDACTED]	1:00

Source Documents

Call 1: 1033-DC-00000033 (Bell Atlantic Mobile toll records)

Call 2: 1178-DC-00000019 (Presidential call log)

Call 3: 1178-DC-00000020 (Presidential call log)

Call 4: V006-DC-00002066 (Presidential call log)

EXHIBIT 7

174

Telephone Calls

TABLE 47

January 18, 1998

No.	Time	Call From	Call To	Length of Call
1	11:49 A.M.	Mr. Jordan's office, [REDACTED]	White House, [REDACTED]	1:12
2	12:50 P.M.	President Clinton	Mr. Jordan's residence, [REDACTED]	2:00
3	1:11 P.M.	President Clinton	Ms. Currie's residence, [REDACTED]	3:00
4	2:15 P.M.	Mr. Jordan's mobile phone, [REDACTED]	White House, [REDACTED]	4:00
5	2:55 P.M.	Mr. Jordan's residence, [REDACTED]	President Clinton "hold per PRESUS, 9:20 P.M."	N/A
6	5:12 P.M.	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
7	6:22 P.M.	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
8	7:06 P.M.	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
9	7:19 P.M.	Mr. Jordan's office [REDACTED]	Cheryl Mills, White House Counsel's Office, [REDACTED]	1:06
10	8:28 P.M.	Ms. Currie	Ms. Lewinsky's pager; message reads: "CALL KAY"	N/A
11	11:02 P.M.	President Clinton	Ms. Currie's residence, [REDACTED]	1:00

Source Documents

Calls 1 and 9: V004-DC-00000165 (Akin, Gump, Strauss, Hauer & Feld call logs)

Call 2: 1178-DC-00000021 (Presidential call log)

Call 3: V006-DC-00002067 (Presidential call log)

Call 4: 1033-DC-00000034 (Bell Atlantic Mobile toll records)

Call 5: 1248-DC-00000312 (Presidential call log)

Calls 6, 7, 8, and 10: 831-DC-00000008 (Pageman)

TABLE 47 continued

Call 11 V006-DC-00007068 (Presidential call log)

EXHIBIT 8

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Telephone Calls

TABLE 48

January 19, 1998

No.	Time	Call From	Call To	Length of Call
1	7:02 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME AT 8:00 THIS MORNING."	N/A
2	8:06 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY."	N/A
3	8:33 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
4	8:37 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME. IT'S A SOCIAL CALL. THANK YOU"	N/A
5	8:41 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "KAY IS AT HOME. PLEASE CALL"	N/A
6	8:43 AM	Ms. Currie's residence, [REDACTED]	President Clinton	1:00
7	8:44 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KATE RE: FAMILY EMERGENCY."	N/A
8	8:50 AM	President Clinton	Ms. Currie's residence, [REDACTED]	1:00
9	8:51 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "MSG. FROM KAY. PLEASE CALL. HAVE GOOD NEWS."	N/A
10	8:56 AM	President Clinton	Mr. Jordan's residence, [REDACTED]	9:00
11	10:29 AM	Mr. Jordan's office, [REDACTED]	White House, [REDACTED]	3:42
12	10:36 AM	Mr. Jordan's office, [REDACTED]	Ms. Lewinsky's pager; message reads: "PLEASE CALL MR. JORDAN AT [REDACTED]"	N/A
13	10:35 AM	Mr. Jordan's office, [REDACTED]	Nancy Hennrich, White House, [REDACTED]	1:12
14	10:44 AM	Mr. Jordan's office, [REDACTED]	Erskine Bowles, White House, [REDACTED]	1:00

TABLE 48 continued

No.	Time	Call From	Call To	Length of Call
15	10:53 AM	Mr. Jordan's office, [REDACTED]	Frank Carter's office, [REDACTED]	0:36
16	10:58 AM	President Clinton	Mr. Jordan's office, [REDACTED]	1:00
17	11:04 AM	Mr. Jordan's office, [REDACTED]	Bruce Lindsey, White House, [REDACTED]	0:24
18	11:16 AM	Mr. Jordan	Ms. Lewinsky's pager, message reads: "PLEASE CALL MR. JORDAN AT [REDACTED]"	0:36
19	11:17 AM	Mr. Jordan's office, [REDACTED]	Bruce Lindsey, White House, [REDACTED]	1:36
20	12:31 PM	Mr. Jordan's mobile phone, [REDACTED]	White House, [REDACTED]	1:00
21	1:45 PM	President Clinton	Ms. Currie's residence, [REDACTED]	2:00
22	2:29 PM	Mr. Jordan's mobile phone, [REDACTED]	White House, [REDACTED]	2:00
23	2:46 PM	Frank Carter	Ms. Lewinsky's pager, message reads: "PLEASE CALL FRANK CARTER AT [REDACTED]"	N/A
24	4:51 PM	Mr. Jordan's office, [REDACTED]	Ms. Currie's residence, [REDACTED]	1:42
25	4:53 PM	Mr. Jordan's office, [REDACTED]	Frank Carter's residence, [REDACTED]	0:24
26	4:54 PM	Mr. Jordan's office, [REDACTED]	Frank Carter's office, [REDACTED]	4:00
27	4:58 PM	Mr. Jordan's office, [REDACTED]	Bruce Lindsey, White House, [REDACTED]	0:12
28	4:59 PM	Mr. Jordan's office, [REDACTED]	Cheryl Mills, White House Counsel's office, [REDACTED]	0:42
29	5:00 PM	Mr. Jordan's office, [REDACTED]	Bruce Lindsey, White House, [REDACTED]	0:18
30	5:00 PM	Mr. Jordan's office, [REDACTED]	Charles Raff, White House Counsel, [REDACTED]	0:24
31	5:05 PM	Mr. Jordan's office, [REDACTED]	Bruce Lindsey, White House, [REDACTED]	0:06

TABLE 48 continued

No.	Time	Call From	Call To	Length of Call
32	5:05 PM	Mr. Jordan's office, [REDACTED]	Bruce Lindsey, White House, [REDACTED]	0:18
33	5:05 PM	Mr. Jordan's office, [REDACTED]	White House, [REDACTED]	2:12
34	5:09 PM	Mr. Jordan's office, [REDACTED]	Cheryl Mills, White House Counsel's office, [REDACTED]	1:06
35	5:14 PM	Mr. Jordan's office, [REDACTED]	Frank Carter's office, [REDACTED]	8:24
36	5:22 PM	Mr. Jordan's office, [REDACTED]	Bruce Lindsey, White House, [REDACTED]	0:06
37	5:22 PM	Mr. Jordan's office, [REDACTED]	Cheryl Mills, White House Counsel's office, [REDACTED]	0:18
38	5:55 PM	Mr. Jordan's office, [REDACTED]	Ms. Currie's residence, [REDACTED]	0:24
39	5:56 PM	President Clinton	Mr. Jordan's office, [REDACTED]	7:00
40	6:04 PM	Mr. Jordan's office, [REDACTED]	Ms. Currie's residence, [REDACTED]	3:00
41	6:26 PM	Mr. Jordan's office, [REDACTED]	Stephen Goodin, White House, [REDACTED]	0:42

Source Documents

Calls 1, 2, 3, 4, 5, 7,
9, 12, 18, and 23:

831-DC-00000009 (Pagemart)

Calls 6 and 8:

V006-DC-00002069 (Presidential call log)

Call 10:

1178-DC-00000023 (Presidential call log)

Calls 11, 12, 13, 14, 15, 17,
19, 24, 25, 26, 27, 28,
29, 30, 31, 32, 33, 34,
35, 36, and 37:

V004-DC-00000165 (Akin, Gump, Strauss, Hauer & Feld call log)

Call 16, 39:

1248-DC-00000319 (Presidential call log)

Calls 20 and 22:

1033-DC-00000035 (Bell Atlantic Mobile toll records)

EXHIBIT 9

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKAN.

JAN 29 1998

JAMES W. McFORMACK, CL
By: V. J. [Signature]
DEP CL

PAULA CORBIN JONES,

Plaintiff,

vs.

No. LR-C-94-290

WILLIAM JEFFERSON CLINTON
and DANNY FERGUSON,

Defendants.

ORDER

Before the Court is a motion by the United States, through the Office of the Independent Counsel ("OIC"), for limited intervention and a stay of discovery in the case of *Jones v. Clinton*, No. LR-C-94-290 (E.D. Ark.). The Court held a telephone conference on this motion on the morning of January 29, 1998, during which the views of counsel for the plaintiff, counsel for the defendants, and the OIC were expressed. Having considered the matter, the Court hereby grants in part and denies in part OIC's motion.

In seeking limited intervention and a stay of discovery, OIC states that counsel for the plaintiff, in a deliberate and calculated manner, are shadowing the grand jury's investigation of the Monica Lewinsky matter. Motion of OIC, at 2. OIC states that "the pending criminal investigation is of such gravity and paramount importance that this Court would do a disservice to the Nation if it were to permit the unfettered - and extraordinarily aggressive - discovery

efforts currently underway to proceed unabated." *Id.* at 3.¹ OIC's motion comes with less than 48 hours left in the period for conducting discovery, the cutoff date being January 30, 1998. Given the timing of OIC's motion and the possible impact that this motion could have on the proceedings in this matter, the Court is required to rule at this time on the admissibility at trial of evidence concerning Monica Lewinsky.

Rule 403 of the Federal Rules of Evidence provides that evidence, although relevant, "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." This weighing process compels the conclusion that evidence concerning Monica Lewinsky should be excluded from the trial of this matter.

The Court acknowledges that evidence concerning Monica Lewinsky might be relevant to the issues in this case. This Court would await resolution of the criminal investigation currently underway if the Lewinsky evidence were essential to the plaintiff's case. The Court determines, however, that it is not essential to the core issues in this case. In fact, some of this evidence might even be inadmissible as extrinsic evidence under Rule 608(b) of the Federal Rules of Evidence. Admitting any evidence of the Lewinsky matter would frustrate the timely resolution of this case and would undoubtedly cause undue expense and delay.

This Court's ruling today does not preclude admission of any other evidence of alleged improper conduct occurring in the White House.

¹ For the record, counsel for the plaintiff take great issue with OIC's characterization of their discovery efforts.

In addition, and perhaps more importantly, the substantial interests of the Presidency militate against any undue delay in this matter that would be occasioned by allowing plaintiff to pursue the Monica Lewinsky matter. Under the Supreme Court's ruling in *Clinion v. Jones*, 117 S.Ct. 1636, 1651 (1997), "[t]he high respect that is owed to the Office of the Chief Executive ... is a matter that should inform the conduct of the entire proceeding, including the timing and scope of discovery." There can be no doubt that a speedy resolution of this case is in everyone's best interests, including that of the Office of the President, and the Court will therefore direct that the case stay on course.

One final basis for the Court's ruling is the integrity of the criminal investigation. This Court must consider the fact that the government's proceedings could be impaired and prejudiced were the Court to permit inquiry into the Lewinsky matter by the parties in this civil case. See, e.g., *Arden Way Associates v. Ivan F. Boesky*, 660 F.Supp. 1494 (S.D.N.Y. 1987). In that regard, it would not be proper for this Court, given that it must generally yield to the interests of an ongoing grand jury investigation, to give counsel for the plaintiff or the defendants access to witnesses' statements in the government's criminal investigation. See Fed.R.Crim.P. 16(a)(2), which generally prohibits the discovery of government witnesses. That being so, and because this case can in any event proceed without evidence concerning Monica Lewinsky, the Court will exclude evidence concerning her from the trial of this matter.

In sum, the plaintiff and defendants may not continue with discovery of those matters that concern Monica Lewinsky. In that regard, OIC's motion for limited intervention and stay of discovery is granted. Further, any evidence concerning Ms. Lewinsky shall be excluded

from the trial of this matter. With respect to matters that do not involve Monica Lewinsky, OIC's motion is denied and the parties may continue with discovery. Because the telephone conference underlying today's ruling involved a discussion of discovery matters, the transcript of the conference shall remain under seal in accordance with the Court's Confidentiality Order on Consent of all Parties.

IT IS SO ORDERED this 29th day of January 1998.


UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON DOCKET SHEET IN
COMPLIANCE WITH RULE 53 AND/OR 79(a) FRCP
ON 1/29/98 BY W

EXHIBIT 10

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
DEC 17 1997
JAMES W. MCCORMACK, CLERK
By JOHNSON DEPT. CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

PAULA CORBIN JONES,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	NO. LR-C-94-290
v.	:	
	:	Judge Susan Webber Wright
WILLIAM JEFFERSON CLINTON	:	(JURY TRIAL DEMANDED)
	:	
and	:	
	:	
DANNY FERGUSON,	:	
	:	
Defendants.	:	

ANSWER OF PRESIDENT WILLIAM JEFFERSON CLINTON
TO THE FIRST AMENDED COMPLAINT

President William Jefferson Clinton, through his undersigned attorneys, answers the First Amended Complaint ("Amended Complaint") in the above-captioned matter as follows:

GENERAL DENIAL

The President adamantly denies the false allegations advanced in the Amended Complaint. Specifically, at no time did the President make sexual advances toward the plaintiff, or otherwise act improperly in her presence. At no time did the President threaten or intimidate the plaintiff. At no time did the President conspire to or sexually harass the plaintiff. At no time did the President conspire to or deprive the plaintiff of her constitutional rights. And at no time did the President act in a manner intended to, or which could, inflict emotional distress upon the plaintiff.

As Governor of Arkansas, Mr. Clinton never took any action or made any request of any state employee to interfere with or otherwise detract from plaintiff's advancement, promotion or job responsibilities. President Clinton also adamantly denies plaintiff's baseless allegations that he engaged in any pattern or practice of granting governmental or employment benefits to women in exchange for sexual favors. Such allegations are false, and have no relevance whatsoever to Plaintiff's claims concerning her alleged encounter with Governor Clinton. Plaintiff's Amended Complaint thus is simply a groundless attempt by Paula Jones and those who are financially supporting her to use the judicial system improperly to try to humiliate and embarrass the President.

SPECIFIC DENIALS**JURISDICTION**

1. Paragraph 1 of the Amended Complaint states legal conclusions as to which no response is required.

VENUE

2. Paragraph 2 of the Amended Complaint states legal conclusions as to which no response is required.

THE PARTIES

3. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3, and therefore denies the same.

4. President Clinton admits he is a resident of Arkansas.

5. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5, and therefore denies the same.

FACTS

6. President Clinton admits that the Governor of Arkansas serves in the executive branch. Based on information and belief, he also admits that at some point in time plaintiff was an employee of the Arkansas Industrial Development Commission. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 6, and therefore denies the same.

7. Admitted.

8. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8, and therefore denies the same.

9. Based on information and belief, President Clinton admits that Danny Ferguson was a state trooper assigned to the Governor's security detail on or about May 8, 1991. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 9, and therefore denies the same.

10. President Clinton denies the allegations set forth in paragraph 10 to the extent they purport to allege that he requested to meet plaintiff in a suite at the Excelsior Hotel. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 10, and therefore denies the same.

11. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11, and therefore denies the same.

12. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12, and therefore denies the same.

13. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13, and therefore denies the same.

14. President Clinton does not recall ever meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 14.

15. While it was the usual practice to have a business suite available for the purpose of making calls and receiving visitors, President Clinton has no recollection of meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 15.

16. President Clinton does not recall ever meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 16.

17. President Clinton denies each and every allegation set forth in paragraph 17, except he admits that on or about May 8, 1991, David Harrington was Director of the Arkansas Industrial Development Commission, having been elevated to that position by Governor Clinton.

18. President Clinton denies each and every allegation set forth in paragraph 18.

19. President Clinton denies each and every allegation set forth in paragraph 19.

20. President Clinton denies each and every allegation set forth in paragraph 20.

21. President Clinton denies each and every allegation set forth in paragraph 21.

22. President Clinton denies each and every allegation set forth in paragraph 22.

23. President Clinton denies each and every allegation set forth in paragraph 23.

24. President Clinton denies each and every allegation set forth in paragraph 24.

25. President Clinton denies each and every allegation set forth in paragraph 25.

26. President Clinton denies each and every allegation set forth in paragraph 26.

27. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27, and therefore denies the same.

28. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 28, and therefore denies the same.

29. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 29, and therefore denies the same.

30. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He also denies making the statement attributed to him in paragraph 30. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 30, and therefore denies the same.

31. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 31, and therefore denies the same.

32. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 32, and therefore denies the same.

33. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 33, and therefore denies the same.

34. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 34 and therefore denies the same.

35. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 35, and therefore denies the same.

36. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 36, and therefore denies the same.

37. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 37, and therefore denies the same.

38. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. President Clinton does not recall ever meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 38.

39. President Clinton denies that he engaged in any improper conduct with respect to plaintiff or any other woman. President Clinton further denies that he took any action against plaintiff to chill or squelch her communications in any way. President Clinton further denies that he discriminated against plaintiff or had a custom, habit, pattern or practice of improper conduct with respect to any other women. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 39, and therefore denies the same.

40. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 40, and therefore denies the same.

41. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 41, and therefore denies the same.

42. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. To the extent the allegations set forth in paragraph 42 merely refer to or quote from the article in the American Spectator, attached as exhibit A to the Amended Complaint, no response is required.

43. President Clinton denies that he engaged in any improper conduct with respect to plaintiff or others. President Clinton further denies that the American Spectator article is accurate. To the extent the allegations set forth in paragraph 43 merely refer to or quote from the article in the American Spectator, attached as exhibit A to the Amended Complaint, no response is required.

44. President Clinton denies each and every allegation set forth in paragraph 44.

45. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 45, and therefore denies the same.

46. President Clinton denies that he made sexual advances toward plaintiff. He also denies the quote attributed to him in paragraph 46. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 46, and therefore denies the same.

47. President Clinton denies each and every allegation in paragraph 47, except that he admits that a false article was published in the American Spectator, that plaintiff spoke publicly on February 11, 1994, and that representatives of plaintiff asked the President to acknowledge certain things which were untrue.

48. Based on information and belief, President Clinton admits that he and those acting on his behalf have denied plaintiff's allegations. Each and every other allegation set forth in paragraph 48 is denied.

49. Based on information and belief, President Clinton admits that his legal counsel made the statements set forth in paragraph 49. Each and every other allegation set forth in paragraph 49 is denied.

50. Based on information and belief, President Clinton admits that White House spokeswoman Dee Dee Meyers made the statement set forth in paragraph 50. Each and every other allegation set forth in paragraph 50 is denied. To the extent paragraph 50 states legal conclusions, no response is required.

51. President Clinton denies each and every allegation set forth in paragraph 51.

52. President Clinton admits that the general public reposes trust and confidence in the integrity of the holder of the office of the Presidency. Each and every other allegation set forth in paragraph 52 is denied.

53. President Clinton denies each and every allegation set forth in paragraph 53, except that he admits he was a member of the Arkansas State Bar on or about May 8, 1991. President Clinton also denies he was a partner at Wright, Lindsey & Jennings, but admits he formerly was Of Counsel to that firm. To the extent paragraph 53 states legal conclusions, no response is required.

54. President Clinton denies each and every allegation set forth in paragraph 54. To the extent paragraph 54 states legal conclusions, no response is required.

55. President Clinton denies each and every allegation set forth in paragraph 55. To the extent paragraph 55 states legal conclusions, no response is required.

56. President Clinton denies each and every allegation set forth in paragraph 56. To the extent paragraph 56 states legal conclusions, no response is required.

57. President Clinton denies each and every allegation set forth in paragraph 57.

Count I: Deprivation of Constitutional Rights and Privileges (42 U.S.C. § 1983)

58. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-57 as if fully set forth herein. President Clinton denies that he engaged in any improper conduct or deprived plaintiff of any constitutional right or privilege protected under 42 U.S.C. § 1983, and therefore denies each and every allegation set forth in paragraphs 58, 59, 60, 61, 62, 63, 64 and 65. To the extent plain-

tiff alleges due process violations, these claims were dismissed by the Court's Orders dated August 22, 1997 and November 24, 1997. Therefore, no response is required. To the extent plaintiff alleges additional grounds for recovery, e.g., an alleged quid pro quo third party favoritism claim, an alleged hostile environment third party favoritism claim or a First Amendment claim, the Court rejected any separate cause of action for any such claims by Order dated November 24, 1997. Therefore, no response is required. To the extent paragraphs 58-65 state legal conclusions, no response is required.

Count II: Conspiracy To Deprive Persons of Equal Protection of the Laws (42 U.S.C. § 1985(3))

59. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-65 as if fully set forth herein. President Clinton denies that he engaged in a conspiracy to deprive plaintiff of any constitutionally protected right, and therefore denies the allegations set forth in paragraphs 66, 67, 68 and 69. To the extent plaintiff alleges due process violations, these claims were dismissed by the Court's Orders dated August 22, 1997 and November 24, 1997. Therefore, no response is required. To the extent paragraphs 66-69 state legal conclusions, no response is required.

Count III: Intentional Infliction of Emotional Distress and Outrage

60. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-69 as if fully set forth herein. President Clinton denies that he engaged

in any improper conduct with respect to plaintiff or any conduct intended to or which he knew was likely to inflict emotional distress upon plaintiff, and therefore denies the allegation of paragraphs 70, 71, 72, 73 and 74. To the extent paragraphs 70-74 state legal conclusions, no response is required.

Count IV: Declaratory Judgment

61. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-74 as if fully set forth herein. President Clinton denies all of the claims asserted in Counts I-III, and therefore denies the allegations appearing in paragraphs 75, 76 and 77(a)-(m). To the extent plaintiff seeks relief in the form of declaratory judgment, the Court by Order dated November 24, 1997 held that such request for relief shall have no effect. Therefore, no response is required. Moreover, to the extent plaintiff seeks declaratory judgment for alleged First Amendment violations, or for alleged violations of the Equal Protection Clause based on alleged quid pro quo third party favoritism or hostile environment third party favoritism, such claims have been rejected as separate causes of action by Order dated November 24, 1997. Therefore, no response is required. To the extent plaintiff seeks a declaratory judgment for alleged due process violations, such claims were dismissed by Orders dated August 22, 1997 and November 24, 1997. Therefore, no response is required. To the extent plaintiff seeks a declaratory judgment for alleged violations of "28 U.S.C. § 1983" or "28 U.S.C. § 1985(3)," (paragraphs 77(c) & (g)) no

such provisions exist, and therefore no response is required. To the extent paragraphs 75-77(a)-(m) state legal conclusions, no response is required.

62. To the extent any allegation set forth in the Amended Complaint is not specifically answered above, it is hereby denied.

AS TO PLAINTIFF'S REQUEST FOR RELIEF

63. President Clinton denies that plaintiff is entitled to any relief whatsoever in connection with the Amended Complaint. To the extent plaintiff seeks to recover costs and attorney's fees and expenses "under 28 U.S.C. § 1988" this request must be rejected as no such provision awarding fees and costs exists.

AFFIRMATIVE DEFENSES

President Clinton alleges the following affirmative defenses to the allegations that he engaged in conduct violative of federal or state law.

FIRST AFFIRMATIVE DEFENSE

64. The Amended Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

65. Plaintiff's cause of action for intentional infliction of emotional distress is time-barred.

THIRD AFFIRMATIVE DEFENSE

66. Plaintiff's claims are barred because she did not incur any injury or damages cognizable at law.

FOURTH AFFIRMATIVE DEFENSE

67. Plaintiff's injuries and damages, if any, were caused by the acts of third persons, for which the President is not responsible.

FIFTH AFFIRMATIVE DEFENSE

68. Plaintiff's injuries and damages, if any, were caused by the acts of plaintiff and her representatives, for which the President is not responsible.

SIXTH AFFIRMATIVE DEFENSE

69. Plaintiff is not entitled to punitive damages under the applicable law.

* * *

Wherefore, President Clinton respectfully requests that the Amended Complaint be dismissed with prejudice and that this Court enter judgment in his favor and grant such other relief as the Court deems just and proper.

Respectfully submitted,



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Counsel to
President William J. Clinton

Dated: December 12, 1997

CERTIFICATE OF SERVICE

I hereby certify that on the 17 day of December, 1997, a true and correct copy of President Clinton's Answer to the First Amended Complaint was served via Federal Express and first class United States Mail postage prepaid to:

Bill W. Bristow, Esq.
216 East Washington
Jonesboro, Arkansas 72401

Donovan Campbell, Jr., Esq.
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EXHIBIT 11

UNDER SEAL - RETURN TO VAULT

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNDER SEAL

Filed May 26, 1998

No. 98-3052

IN RE: SEALED CASE

Consolidated with
Nos. 98-3053 & 98-3059

Appeals from the United States District Court
for the District of Columbia
(98ms00068)

Nathaniel H. Speights filed the briefs for appellant Monica Lewinsky.

Charles J. Ogletree, Jr. filed the briefs for appellant Francis D. Carter, Esq.

Robert J. Bittman, Deputy Independent Counsel, filed the briefs for cross-appellant the United States.

Before: GINSBURG, RANDOLPH, and TATEL, *Circuit Judges*.

Opinion for the Court filed by *Circuit Judge* RANDOLPH.

RANDOLPH, *Circuit Judge*: In 1997, Monica S. Lewinsky, a former White House intern, received a subpoena to produce items and to testify in *Paula Jones v.*

United States District

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Court for the Eastern District of Arkansas. The subpoena requested, among other things, documents relating to an alleged relationship between President Clinton and Lewinsky and any gifts the President may have given her. Lewinsky retained Francis D. Carter, Esq., to represent her regarding the subpoena.

Carter drafted an affidavit for Lewinsky, which she signed under penalty of perjury. The affidavit, submitted to the Arkansas district court as an exhibit to Lewinsky's motion to quash the subpoena, states in relevant part:

I have never had a sexual relationship with the President, [and] he did not propose that we have a sexual relationship The occasions that I saw the President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

On January 16, 1998, at the request of the Attorney General, a Special Division of this Court expanded the jurisdiction of the Office of Independent Counsel to include "authority to investigate . . . whether Monica Lewinsky or others suborned perjury, obstructed justice, intimidated witnesses, or otherwise violated federal law . . . in dealing with witnesses, potential witnesses, attorneys, or others concerning the civil case *Jones v. Clinton*." Order of the Special Division, Jan. 16, 1998. On February 2 and 9, 1998, as part of that investigation, a grand jury issued subpoenas to Carter, the first for documents and other items, the second for his testimony. Carter

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moved to quash the subpoenas, contending, *inter alia*, that the documents, testimony, and other items sought were protected from disclosure by the attorney-client privilege, the work-product privilege, and Lewinsky's Fifth Amendment privilege against self-incrimination. Lewinsky, as the real-party-in-interest, filed a response in support of Carter's motion. The United States opposed the motion, arguing among other things that the crime-fraud exception vitiated any claims of attorney-client or work-product privilege and that the Fifth Amendment did not bar production of the requested materials. The district court ordered Carter to comply with the two grand jury subpoenas except to the extent that compliance would "call for him to disclose materials in his possession that may not be revealed without violating Monica S. Lewinsky's Fifth Amendment rights."

Carter and Lewinsky argue in separate appeals that the district court erred in rejecting their motions to quash the grand jury subpoenas in their entirety. In its cross-appeal, the United States, through the Office of Independent Counsel, claims that the Fifth Amendment does not bar production of any of the materials the grand jury subpoenaed from Carter.

We dismiss Carter's appeal for want of jurisdiction. Well-settled law dictates ✓ that "one to whom a subpoena is directed may not appeal the denial of a motion to quash that subpoena but must either obey its commands or refuse to do so and contest

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the validity of the subpoena if he is subsequently cited for contempt on account of his failure to obey." *United States v. Ryan*, 402 U.S. 530, 532 (1971); see *Cobbledick v. United States*, 309 U.S. 323, 328 (1940); *In re Sealed Case*, 107 F.3d 46, 48 n.1 (D.C. Cir. 1997). Rather than risking contempt, Carter has sworn that he will comply with the subpoenas if ordered to do so.¹

Our jurisdiction over Lewinsky's appeal is another matter. Lewinsky is the holder of the privilege. Given Carter's sworn declaration that he will give testimony if ordered, she is entitled to appeal the district court's ruling rejecting Carter's assertion of the privilege. See *In re Sealed Case*, 107 F.3d at 48 n.1.

The district court held that the crime-fraud exception to the attorney-client privilege applied. After reviewing the government's *in camera* submission, the court found that "Ms. Lewinsky consulted Mr. Carter for the purpose of committing perjury and obstructing justice and used the material he prepared for her for the purpose of committing perjury and obstructing justice."² Lewinsky tells us she could not have

¹ In addition to adopting Lewinsky's arguments regarding the crime-fraud exception, Carter claims that the subpoenas are overbroad, unreasonable, and oppressive and that the district court's reliance on the Independent Counsel's *ex parte* submissions in enforcing the subpoenas violated due process. Contrary to Carter's contention, the issues he seeks to present are thus neither "virtually identical" to, nor "inextricably intertwined" with, those Lewinsky raises.

² The district court did not find, nor did the Independent Counsel suggest, any impropriety by Carter.

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committed either crime: the government could not establish perjury because her denial of having had a "sexual relationship" with President Clinton was not "material" to the Arkansas proceedings within the meaning of 18 U.S.C. § 1623(a); and her affidavit containing this denial could not have constituted a "corrupt[] . . . endeavor[] to influence" the Arkansas district court within the meaning of 18 U.S.C. § 1503. Both of Lewinsky's propositions rely on the Arkansas district court's ruling on January 30, 1998, after Lewinsky had filed her affidavit, that although evidence concerning Lewinsky might be relevant, it would be excluded from the civil case under FED. R. EVID. 403 as unduly prejudicial, "not essential to the core issues in th[e] case," and to prevent undue delay resulting from the Independent Counsel's investigation.³

A statement is "material" if it "has a natural tendency to influence, or was capable of influencing, the decision of the tribunal in making a [particular] determination." *United States v. Barrett*, 111 F.3d 947, 953 (D.C. Cir.), *cert. denied*, 118 S. Ct. 176 (1997). The "central object" of any materiality inquiry is "whether the misrepresentation or concealment was predictably capable of affecting, *i.e.*, had a

³ Lewinsky does not appear to contest directly the district court's finding that she made one or more false statements in her sworn affidavit. Even so, we have independently reviewed the *in camera* materials considered by the district court and conclude that sufficient evidence existed to support the court's finding.

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natural tendency to affect, the official decision.” *Kungys v. United States*, 485 U.S. 759, 771 (1988). Lewinsky used the statement in her affidavit, quoted above, to support her motion to quash the subpoena issued in the discovery phase of the Arkansas litigation. District courts faced with such motions must decide whether the testimony or material sought is reasonably calculated to lead to admissible evidence and, if so, whether the need for the testimony, its probative value, the nature and importance of the litigation, and similar factors outweigh any burden enforcement of the subpoena might impose. See FED. R. CIV. P. 26(b)(1), 45(c)(3)(A)(iv); *Linder v. Department of Defense*, 133 F.3d 17, 24 (D.C. Cir. 1998); see generally 9A CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2459 (2d ed. 1995). There can be no doubt that Lewinsky’s statements in her affidavit were – in the words of *Kungys v. United States* – “predictably capable of affecting” this decision. She executed and filed her affidavit for this very purpose.

As to obstruction of justice, 18 U.S.C. § 1503 is satisfied whenever a person, with the “intent to influence judicial or grand jury proceedings,” takes actions having the “natural and probable effect” of doing so. *United States v. Aguilar*, 515 U.S. 593, 600 (1995) (citations and quotation marks omitted); see *United States v. Russo*, 104 F.3d 431, 435-36 (D.C. Cir. 1997). Our review of the *in camera* materials on which the district court based its decision convinces us that the government sufficiently

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established the elements of a violation of § 1503. That is, the government offered “evidence that if believed by the trier of fact would establish the elements of” the crime of obstruction of justice. *In re Sealed Case*, 107 F.3d at 50 (citation and quotation marks omitted); see *In re Sealed Case*, 754 F.2d 395, 399-400 (D.C. Cir. 1985) (same).

Lewinsky maintains that the district court erred in treating, as admissible for *in camera* review, transcripts of taped conversations between Lewinsky and Linda Tripp. She relies on the following statement in *United States v. Zolin*, 491 U.S. 554, 575 (1989): “the threshold showing to obtain *in camera* review may be met by using any relevant evidence, lawfully obtained, that has not been adjudicated to be privileged.” *Zolin*, and the statement just quoted, dealt with a rather different problem than the one presented here. Sometimes a party seeking to overcome the privilege by invoking the crime-fraud exception asks the district court to examine *in camera* the privileged material to determine whether it provides evidence of a crime. The issue *Zolin* addressed is under what circumstances a district court should undertake such *in camera* review. *Zolin’s* answer, as the quotation indicates, was that the court should do so only when there has been a threshold showing through evidence lawfully obtained. See *In re Grand Jury Proceedings*, 33 F.3d 342, 350 (4th Cir. 1994). In this case, the district court reviewed *in camera* not the allegedly

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privileged material, but other evidence intended to establish that the crime-fraud exception applied. In any event, even if *Zolin* applied, Lewinsky gains nothing from the decision. She maintains that the Tripp tapes were not "lawfully obtained" and therefore should not have been considered *in camera*. But the government satisfied its burden wholly apart from the Tripp tapes. Other government evidence -- consisting of grand jury testimony and documents -- established that the crime-fraud exception applied. Because that other evidence, if believed by the trier of fact, combined with the circumstances under which Lewinsky retained Carter, would establish the elements of the crime-fraud exception, there is no reason for us to consider her arguments about the tapes.⁴

Lewinsky raises other objections to the district court's decision, including the argument that production of the subpoenaed materials would violate her Fifth Amendment privilege against self-incrimination. Our resolution of the cross-appeal,

⁴ Lewinsky's brief suggests, in a short passage, that other evidence obtained by the grand jury is tainted by the alleged illegality of the Tripp tapes. *United States v. Callandra*, 414 U.S. 338 (1974), refused to extend the exclusionary rule -- and hence doctrines such as the fruit-of-the-poisonous-tree -- to grand jury proceedings. No grand jury witness may refuse to answer questions on the ground that the questions are based on illegally obtained evidence. See 414 U.S. at 353-55. It follows that regardless of the legality of the Tripp tapes, the grand jury did not unlawfully obtain the other evidence presented to the district court *in camera*.

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discussed next, disposes of that claim. As to the remainder of Lewinsky's arguments, we have accorded each of them full consideration and conclude that none has merit.⁵

This brings us to the Independent Counsel's cross-appeal. The district court ruled that compelling Carter to produce materials his client gave him would violate Lewinsky's Fifth Amendment privilege because it would compel her to admit the materials exist and had been in her possession. The Supreme Court foreclosed that line of reasoning in *Fisher v. United States*, 425 U.S. 391 (1976). Documents transferred from the accused to his attorney are "obtainable without personal compulsion on the accused," and hence the accused's "Fifth Amendment privilege is . . . not violated by enforcement of the [subpoena] directed toward [his] attorneys. This is true whether or not the Amendment would have barred a subpoena directing the [accused] to produce the documents while they were in his hands." *Id.* at 398, 397; see also *Couch v. United States*, 409 U.S. 322, 328 (1973).

Regardless whether Lewinsky herself would have been able to invoke her Fifth Amendment privilege, but see *Andresen v. Maryland*, 427 U.S. 463, 473-74 (1976), the district court's refusal to order full compliance with the subpoenas could be

⁵ In her reply brief, Lewinsky argues for first time that the district court should have permitted her to examine the material the court reviewed *in camera*. This argument comes too late to be considered. See *Rollins Envtl. Servs. (NJ) Inc. v. EPA*, 937 F.2d 649, 652 n.2 (D.C. Cir. 1991).

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sustained only if the materials sought fell under a valid claim of attorney-client privilege. *See Fisher*, 425 U.S. at 403-05; *see also In re Feldberg*, 862 F.2d 622, 629 (7th Cir. 1988). But the district court held, correctly, that no valid attorney-client privilege existed. Under *Fisher*, the district court therefore should have denied the motions to quash in their entirety.⁶

Accordingly, we affirm in part and reverse in part the order of the district court and remand the case for proceedings consistent with this opinion. No. 98-3053 is dismissed. The mandate shall issue seven days after the date of this opinion. *See* FED. R. APP. P. 41(a); D.C. CIR. R. 41(a)(1); *Johnson v. Bechtel Assocs. Prof'l. Corp.*, 801 F.2d 412, 415 (D.C. Cir. 1986); *Public Citizen Health Research Group v. Auchter*, 702 F.2d 1150, 1159 n.31 (D.C. Cir. 1983).

So ordered.

⁶ As respondent in the cross-appeal, Carter makes additional arguments against the applicability of the crime-fraud exception. But because the only issue in the cross-appeal is the applicability of the Fifth Amendment, Carter may not use the cross-appeal to press arguments we will not consider in his direct appeal. *See Grimes v. District of Columbia*, 836 F.2d 647, 651-52 (D.C. Cir. 1988).

UNDER SEAL - RETURN TO TATL

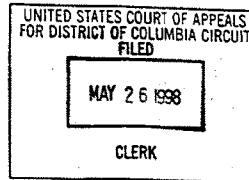
United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT BY: *E. Dwyer* 6.3.98

ATTACHED: ☐ Answering Order
☐ Motion
☐ Grant on Costs

No. 98-3052 September Term, 1997
98ms00068

In re: Sealed Case, No. 98-3052

Consolidated with 98-3053, 98-3059



BEFORE: Ginsburg, Randolph and Tatel, *Circuit Judges*

JUDGMENT

These causes came on to be heard on the record on appeal from the United States District Court for the District of Columbia and were argued by counsel. On consideration thereof, it is

ORDERED and **ADJUDGED**, by the Court, that the judgment of the District Court appealed from in these causes is hereby affirmed in part and reversed in part in Nos 98-3052 and 98-3059, and the cases are remanded, and No 98-3053 is dismissed, all in accordance with the opinion for the Court filed herein this date

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: *Linda Jones*
Linda Jones
Deputy Clerk

Date: May 26, 1998
Opinion for the Court filed by Circuit Judge Randolph.

EXHIBIT 12

AFFIDAVIT OF JANE DOE # 6

1. My name is Jane Doe #6. I am 24 years old and I currently reside at 700 New Hampshire Avenue, N.W., Washington, D.C. 20037.

2. On December 19, 1997, I was served with a subpoena from the plaintiff to give a deposition and to produce documents in the lawsuit filed by Paula Corbin Jones against President William Jefferson Clinton and Danny Ferguson.

3. I can not fathom any reason that the plaintiff would seek information from me for her case.

4. I have never met Ms. Jones, nor do I have any information regarding the events she alleges occurred at the Excelsior Hotel on May 8, 1991 or any other information concerning any of the allegations in her case.

5. I worked at the White House in the summer of 1995 as a White House intern. Beginning in December, 1995, I worked in the Office of Legislative Affairs as a staff assistant for correspondence. In April, 1996, I accepted a job as assistant to the Assistant Secretary for Public Affairs at the U.S. Department of Defense. I maintained that job until December 26, 1997. I am currently unemployed but seeking a new job.

6. In the course of my employment at the White House I met President Clinton several times. I also saw the President at a number of social functions held at the White House. When I worked as an intern, he appeared at occasional functions attended by me and several other interns. The correspondence I drafted while I worked at the Office of Legislative Affairs was seen and edited by supervisors who either had the President's signature affixed by mechanism or, I believe, had the President sign the correspondence itself.

7. I have the utmost respect for the President who has always behaved appropriately in my presence.

8. I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any

849-DC-00000634

other person who had a sexual relationship with the President, was offered employment or other benefits in exchange for a sexual relationship, or was denied employment or other benefits for rejecting a sexual relationship. The occasions that I saw the President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

9. Since I do not possess any information that could possibly be relevant to the allegations made by Paula Jones or lead to admissible evidence in this case, I asked my attorney to provide this affidavit to plaintiff's counsel. Requiring my deposition in this matter would cause disruption to my life, especially since I am looking for employment, unwarranted attorney's fees and costs, and constitute an invasion of my right to privacy.

I declare under the penalty of perjury that the foregoing is true and correct.



MONICA S. LEWINSKY

849-DC-00000635

DISTRICT OF COLUMBIA, ss:

MONICA S. LEWINSKY, being first duly sworn on oath according to law, deposes and says that she has read the foregoing AFFIDAVIT OF JANE DOE #6 by her subscribed, that the matters stated herein are true to the best of her information, knowledge and belief.

Monica S. Lewinsky
MONICA S. LEWINSKY

SUBSCRIBED AND SWORN to before me this 7th day of January, 1998.

Kathleen M. Grimes
NOTARY PUBLIC, D.C.
My Commission expires: August 31, 2000

849-DC-00000636

EXHIBIT 13

Paula Jones v. William Jefferson Clinton and Darryl Ferguson
No. LR-C-94-290 (E.D. Ark.)

DEPOSITION OF WILLIAM JEFFERSON CLINTON

Definition of Sexual Relations

For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes -

(1) contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person;

(2) contact between any part of the person's body or an object and the genitalia or anus of another person; or

(3) contact between the genitalia or anus of the person and any part of another person's body.

"Contact" means intentional touching, either directly or through clothing.

849-DC-00000586

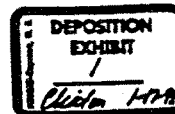
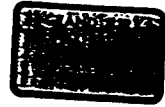


EXHIBIT 14

S-20



Andrew J. Scott
01/20/98 10:55:10 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: adam.carstens@mail.house.gov
Subject: DRUDGE-REPORT-EXCLUSIVE 1/18/98

SEX ---- LIES ---- Videotape?

At some point, whether now or after the historians get to him, this guy is going down.

----- Forwarded by Andrew J. Scott/OMB/EOP on 01/20/98 10:54 AM -----



drudge@drudgereport.com
01/17/98 11:27:00 PM

Record Type: Record

To: Andrew J. Scott@EOP
cc:
Subject: DRUDGE-REPORT-EXCLUSIVE 1/18/98

XXXXX DRUDGE REPORT XXXXX 06:11 UTC SUN JAN 18 1998 XXXXX

NEWSWEEK KILLS STORY ON WHITE HOUSE INTERN

BLOCKBUSTER REPORT: 23-YEAR OLD, FORMER WHITE HOUSE INTERN, SEX
RELATIONSHIP WITH PRESIDENT

World Exclusive
Must Credit the DRUDGE REPORT

V006-DC-00003772

At the last minute, at 6 p.m. on Saturday evening, NEWSWEEK magazine killed a story that was destined to shake official Washington to its foundation: A White House intern carried on a sexual affair with the President of the United States!

The DRUDGE REPORT has learned that reporter Michael Isikoff developed the story of his career, only to have it spiked by top NEWSWEEK suits hours before publication. A young woman, 23, sexually involved with the love of her life, the President of the United States, since she was a 21-year-old intern at the White House. She was a frequent visitor to a small study just off the Oval Office where she claims to have indulged the president's sexual preference. Reports of the relationship spread in White House quarters and she was moved to a job at the Pentagon, where she worked until last week.

HB 004684

The young intern wrote long love letters to President Clinton, which she delivered through a delivery service. She was a frequent visitor at the White House after midnight, where she checked in the WAVE logs as visiting a secretary named Betty Curry, 57.

The DRUDGE REPORT has learned that tapes of intimate phone conversations exist.

The relationship between the president and the young woman became strained when the president believed that the young woman was bragging to others about the affair.

NEWSWEEK and Isikoff were planning to name the woman. Word of the story's impending release caused blind chaos in media circles: TIME magazine spent Saturday scrambling for its own version of the story, the DRUDGE REPORT has learned. The NEW YORK POST on Sunday was set to front the young intern's affair, but was forced to fall back on the dated ABC NEWS Kathleen Willey break.

The story was set to break just hours after President Clinton testified in the Paula Jones sexual harassment case.

Ironically, several years ago, it was Isikoff that found himself in a shouting match with editors who were refusing to publish even a portion of his meticulously researched investigative report that was to break Paula Jones. Isikoff worked for the WASHINGTON POST at the time, and left shortly after the incident to build them for the paper's sister magazine, NEWSWEEK.

Michael Isikoff was not available for comment late Saturday. NEWSWEEK was on voice mail.

The White House was busy checking the DRUDGE REPORT for details.

Developing...

Filed by Matt Drudge

The REPORT is moved when circumstances warrant

<http://www.drudgereport.com> for breaks

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V006-DC-00003773

HB 004685

EXHIBIT 15

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F 008

DEC -05 97 (FRI) 16:57 RADER, CAMPBELL

TEL: 214 630 9990

P. 80

TRANSACTION REPORT

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FROM ATTORNEY/SENDER: T. Wesley Holmes

1408-DC-00000005

COMMENTS:

EXHIBIT 16

THE WHITE HOUSE
WASHINGTON

September 4, 1998

Via Hand Delivery

Julie Corcoran, Esq.
Office of the Independent Counsel
Suite 490 North
1001 Pennsylvania Ave, N.W.
Washington, D.C. 20004

Dear Julie:

I am enclosing additional documents from the Counsel's Office that are responsive to your Subpoena D1512. These documents bear bates numbers S 020780 – S020799. As you and Mr. Crane know, a number of the individuals who may have responsive documents are on vacation or are travelling with the President. I will attempt to gather and produce any remaining documents responsive to this request early next week. Mr. Crane asked specifically about documents from Ms. Lewis. She is out of the Office, but her staff has indicated she has no responsive documents. I will confirm this with her when she returns.

I trust that your office will treat the enclosed information as confidential and entitled to all protection accorded by law, including Federal Rule of Criminal Procedure 6(e), to documents subpoenaed by a federal grand jury. If you have any questions, I can be reached at (202) 456-7804.

Sincerely,



Michelle Peterson
Associate Counsel to the President

Enclosures

1512-DC-00000018

Talking Points
January 24, 1998

- Q: Given all the events of the last week, don't you believe the President owes the American people an explanation of his relationship and activities with respect to Ms. Lewinsky?
- A: The President has given the American people the answer to the most important questions: he did not have a sexual relationship with Ms. Lewinsky and he never asked anyone to do anything but tell the truth. There is an investigation on-going and the President is cooperating with that investigation. However, given the climate and types of investigative techniques being used, it is only when the investigation has concluded and the President has been exonerated, that he can address the specific questions you may have.
- Q: There are reports that Ms. Lewinsky has been granted full immunity by Mr. Starr in exchange for testimony that she had oral sex with the President, but that he did not tell her to lie or try to suborn perjury. Does the President deny her testimony?
- A: If those reports are true, then he certainly denies that he ever had oral sex with Ms. Lewinsky.
- Q: What acts does the President believe constitute a sexual relationship?
- A: I can't believe we're on national television discussing this. I am not about to engage in an "act-by-act" discussion of what constitutes a sexual relationship.
- Q: Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?
- A: Of course it would.
- Q: Would touching designed to bring about an orgasm constitute a sexual relationship?
- A: Look, I'm not going down this road because soon you'll be asking me whether hugging someone is constitutes sex and the President will be having sex with everyone in America.
- Q: When do you expect the President to explain or at least describe the nature of his relationship with Ms. Lewinsky?
- A: I don't know, but let's remember: the President has answered the important questions about Ms. Lewinsky -- that he did not have a sexual relationship with her and that he did not ask her to lie. And, he will cooperate with the on-going investigation as it moves forward.

1512-DC-0000C

S 020

Q: In light of the gifts they reportedly exchanged with one another, and reports of telephone calls and letters, would you at least describe the President's relationship with Ms. Lewinsky as a friendship?

A: I'm sure they had a friendly relationship.

Q: What was the nature of Ms. Lewinsky's relationship with Ms. Currie and how frequently did she see her?

A: We're not going to get in the business of addressing some but not other questions. There is an on-going investigation and given the types of investigative techniques, we simply will not be in a position to address these questions until it is complete.

REDACTED

1512-DC-00000038

EXHIBIT 17

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1/25/98 LATIMES A1
1/25/98 L.A. Times A1
1998 WL 2392128

Los Angeles Times
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Sunday, January 25, 1998

National Desk

CLINTON UNDER FIRE Clinton Enlists Kantor, Offers Specific Denial
ELIZABETH SHOGREN, RICHARD A. SERRANO, DAVID WILLMAN
TIMES STAFF WRITERS

WASHINGTON -- President Clinton stepped up his defense against allegations of sexual misconduct, recruiting veteran political warrior and longtime advisor Mickey Kantor to become his personal counsel and signing off Saturday on a set of "talking points" for aides that significantly amplify his denial of a sexual relationship with a White House intern.

The president "certainly denies that he ever had oral sex" with 24-year-old former intern Monica S. Lewinsky, according to the memo to be used by his defenders. Lewinsky herself, in a sworn statement, has denied having a sexual relationship with Clinton. In telephone conversations secretly tape-recorded by a friend, however, Lewinsky reportedly said they had oral sex. The president's previous denials were viewed by some as being worded artfully so that they might exclude oral sex.

Approval of the talking points may be an early sign of the counterattack that some Clinton advisors hope Kantor will help the White House launch after a week of near-paralysis.

Kantor, who began helping the White House late Friday and continued to meet with aides there on Saturday, played a key role in devising the response that saved Clinton's 1992 bid for the presidency when nightclub singer Gennifer Flowers accused the then-Arkansas governor of sexual impropriety. And it is Kantor's political savvy, more than his legal expertise, that will be tested now.

In the tumultuous week since independent counsel Kenneth W. Starr began investigating claims that Lewinsky was involved sexually with Clinton, the White House has seen its position steadily erode. Aides, hobbled by legal concerns and unsure about the facts, have been unable to counterattack.

And, as senior administration officials noted bitterly on Saturday, efforts to persuade congressional or other prominent Democrats to speak out for Clinton have almost uniformly failed.

Indeed, Clinton's own former chief of staff, Leon E. Panetta, publicly suggested it might be best for Vice President Al Gore to take over if the allegations prove true.

What Other Developments Disclose

Against this darkening background, there were these other developments:

- * Lewinsky's lawyer, William Ginsburg, said negotiations with Starr's office are at a standstill. Ginsburg demanded "complete immunity" from prosecution before Lewinsky will cooperate with the investigation into possible perjury, obstruction of justice or other criminal wrongdoing by Clinton.

"That's my line in the sand," he said.

- * New excerpts of Linda Tripp's tapes of Lewinsky, released by Newsweek magazine, show the two women discussing Lewinsky's plan to lie about her relations with Clinton, as well as pressures she was under to cover it up.

- * Television film was unearthed showing Clinton surrounded by voters at an outdoor rally in November 1996, with a broadly smiling Lewinsky standing right in front of him and then leaning forward for a presidential embrace.

- * After a debate over tactics, the White House decided not to avoid today's television talk shows but instead to send three politically oriented aides, Rahm Emanuel, Paul Begala and Ann Lewis, before the cameras to defend the president.

The decision to bring Kantor onto the team reflected a realization by Clinton and his inner circle that events, and with them public opinion, were outrunning their efforts to protect themselves.

Not only was almost no prominent figure rising vigorously to the president's defense, but the torrent of leaks about the supposed nature of Clinton's alleged relationship with Lewinsky was so shocking that by Saturday, talk of impeachment and resignation was commonplace. "There's nobody for him," one veteran Democratic operative said, reflecting the pervasive gloom. "Even Nixon had a few people for him at the end."

Tacitly acknowledging the downward slide and the difficulty in arresting it, Rep. Charles B. Rangel (D-N.Y.) said: "When the president has not more vigorously challenged those who make these allegations but speaks in terms of legal jargon, it creates a bad situation."

Said a senior administration official: "We are dealing with a rapidly moving legal situation caused by an extremely aggressive independent counsel. To some extent, the press is moving this

story faster than it is possible for us to respond to."

It was not just the speed of press revelations that hampered the White House.

While his lawyers urged caution from the beginning, Clinton's political advisors, at first, argued for prompt disclosure of all the facts--taking it for granted that Clinton, as he had so often in the past, could make his case successfully to the public.

Only gradually have some senior aides come to realize that such a press conference or other public appearance might not be feasible.

"The political people are catching up with the legal people about the facts, and they recognize that the facts may be such that it would be better to wait and see what develops before he goes out" in public, one senior official said later Saturday.

The talking points represented a middle ground.

Members of the White House staff had been working for several days to draft the detailed set of authorized answers administration officials and other defenders could give to questions about the matter.

In general, they affirm the president's contention that "there was no improper relationship" with Lewinsky. But they deal specifically with oral sex because some skeptics have suggested Clinton, in effect, had his fingers crossed in his earlier denials because--it was suggested--he does not believe having oral sex constitutes a sexual relationship.

Bringing Kantor aboard, as Clinton did with a face-to-face appeal at the White House, is seen by some aides as an even more important sign that the White House is finally beginning to marshal its resources.

"They trust and like him on a personal level and know that he is savvy. He's been there for the president for most of his political life," a knowledgeable official said.

Moreover, making Kantor a personal lawyer instead of a White House aide helps the Clintons deal with another problem: Legally, members of the White House staff can be compelled to reveal what they have heard from the president, even if the aides are lawyers.

Thus, at least some senior aides have been reluctant to talk candidly with Clinton for fear they might be subpoenaed by Starr. And Clinton's legal team, though protected by lawyer-client privilege, lacks the political experience to advise him on that aspect of the issue.

Kantor, as a private lawyer with years of political experience, can bridge the gap.

Whether Kantor can find a rabbit in the hat again remains to be seen, but by Saturday night the mood inside the White House was more hopeful.

"I've had a lot of experience with these kinds of things, and this is one of the nastiest," an advisor said, but "I think we're going forward now, and forward direction is a lot better."

Talks Stalled, Lawyer for Lewinsky Says

Ginsburg, Lewinsky's lawyer said negotiations with the independent counsel's office are stalled, though he has continued to seek ways to restart the talks.

If his client does not receive "complete immunity," he said, she will exercise her 5th Amendment protection against self-incrimination if called before a federal grand jury Tuesday, as she is scheduled to do.

"The clock is ticking," Ginsburg said. " . . . But I need a promise not to prosecute."

For his part, the independent counsel appeared unwilling to yield on his demand that Lewinsky submit a detailed proffer, summarizing what she is willing to say under oath before immunity is promised.

"There has been no deal," said one source. "We're not on the same page."

Ginsburg said he believes Starr's office is hesitant about granting her immunity because of earlier problems with potential prosecution witnesses in the past.

Ginsburg pointed to former Department of Justice official and Clinton confidant Webster L. Hubbell and former Whitewater real estate partner Susan McDougal, both of whom initially agreed to help Starr's office, but in the end did not present damaging testimony against Clinton.

"Starr and his office are afraid that they will be burned twice," Ginsburg said. "Webb Hubbell and Susan McDougal went south, or sour, on him and did not participate. So he is concerned that he will get burned again."

Attorney Describes Apartment Search

Ginsburg described in detail a search and seizure of Lewinsky's property from her Watergate apartment on Thursday. He said the search, to which Lewinsky voluntarily consented, lasted two hours. Lewinsky and her mother were both present.

"The federal agents knocked on the door and the girls said, 'Good morning,' and they had coffee and cakes laid out," he said. "They [the agents] were very courteous. They went room by room, and they didn't tear anything apart."

Taken were her computer, several dresses and at least one dark-colored pantsuit. Also seized were gifts Lewinsky allegedly had received from the president and other White House staffers, such as a T-shirt, a hatpin and a book of Walt Whitman poetry. s Regarding the dresses, Ginsburg said he assumed that agents were looking for any signs of Clinton's semen. There has been speculation that semen on Lewinsky's clothing could be used to establish a DNA link to Clinton.

Ginsburg said he had no knowledge of any stained dresses.

"I'm not aware of it," he said. "And if such a thing existed, you wouldn't think my client would have had her dress cleaned after she had sex?"

The lawyer also sharply denied reports that he and Lewinsky turned down an offer of immunity from Starr's office shortly after she was confronted with the tape-recordings at a meeting at the Ritz-Carlton hotel in Arlington, Va.

Meanwhile, Ginsburg said Lewinsky continues to be racked by the allegations surrounding her, and that she also feels betrayed by Tripp, the friend who made the tape recordings.

"Monica's agenda is to unruin her life, to bring it into equilibrium and balance again, and to avoid a felony conviction and avoid jail."

Regarding Tripp, Ginsburg said: "Monica is angry. She feels betrayed. She doesn't understand, nor do I. What did Linda Tripp get? What's her motive?"

*

Times staff writers Jack Nelson, Jonathan Peterson, Alan C. Miller, Jane Hall and Richard T. Cooper contributed to this story.

TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE

PHOTO: President Clinton hugs a woman identified as Monica S. Lewinsky during a rally in November 1996.; PHOTOGRAPHER: CNN

---- INDEX REFERENCES ----

KEY WORDS: CLINTON, BILL; LEWINSKY, MONICA S; KANTOR, MICKEY; PRESIDENT (U.S.); GOVERNMENT MISCONDUCT; UNITED STATES -- GOVERNMENT OFFICIALS; UNITED STATES -- GOVERNMENT EMPLOYEES;

EXHIBIT 18

LAW OFFICES
WILLIAMS & CONNOLLY
725 TWELFTH STREET, N.W.
WASHINGTON, D. C. 20005-5901
(202) 434-5000
FAX (202) 434-5029

DAVID E. KENDALL
(202) 434-5145

EDWARD BENNETT WILLIAMS (1930-1998)
PAUL R. CONNOLLY (1927-1998)

November 27, 1998

The Honorable Henry J. Hyde
Chairman, Committee on the Judiciary
United States House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515-6216

By Hand

Dear Chairman Hyde:

We submit herewith responses by the President to the 81 requests for admission that we received on November 5, 1998.

In an effort to be of assistance to the Committee and to provide as much information as possible, we have treated your requests as questions and responded accordingly.

As you know, the President has answered a great many of these questions previously. Where that is the case, we have simply referenced the answers that have been previously given and, in some instances, supplemented those answers.


I want to emphasize again the point I made in the Preliminary Memorandum we submitted to the Committee more than two months ago: the President did not commit or suborn perjury, tamper with witnesses, obstruct justice or abuse power. As you know, we made two formal submissions to the Committee in September and one in October. We will be submitting a further memorandum on behalf of the President in the near future.

WILLIAMS & CONNOLLY

The Honorable Henry J. Hyde
November 27, 1998
Page 2

I will forward to you a sworn original of the responses before the end of
the day.

Sincerely,

A handwritten signature in dark ink, appearing to read "David E. Kendall", written over a faint, larger version of the same signature.

David E. Kendall

cc: The Honorable John Conyers, Jr.

**RESPONSE OF WILLIAM J. CLINTON,
PRESIDENT OF THE UNITED STATES, TO QUESTIONS
SUBMITTED BY CONGRESSMAN HENRY HYDE, CHAIRMAN
OF THE HOUSE JUDICIARY COMMITTEE**

INTRODUCTORY STATEMENT

Set forth below are answers to the questions that you have asked me.

I would like to repeat, at the outset, something that I have said before about my approach to these proceedings. I have asked my attorneys to participate actively, but the fact that there is a legal defense to the various allegations cannot obscure the hard truth, as I have said repeatedly, that my conduct was wrong. It was also wrong to mislead people about what happened, and I deeply regret that.

For me, this long ago ceased to be primarily a legal or political issue and became instead a painful personal one, demanding atonement and daily work toward reconciliation and restoration of trust with my family, my friends, my Administration and the American people. I hope these answers will contribute to a speedy and fair resolution of this matter.

1. Do you admit or deny that you are the chief law enforcement officer of the United States of America?

Response to Request No. 1:

The President is frequently referred to as the chief law enforcement officer, although nothing in the Constitution specifically designates the President as such. Article II, Section 1 of the United States Constitution states that "[t]he executive Power shall be vested in a President of the United States of America," and the law enforcement function is a component of the executive power.

2. Do you admit or deny that upon taking your oath of office that you swore you would faithfully execute the office of President of the United States, and would to the best of your ability, preserve, protect and defend the Constitution of the United States?

Response to Request No. 2:

At my Inaugurations in 1993 and 1997, I took the following oath: "I do solemnly swear that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

3. Do you admit or deny that, pursuant to Article II, section 2 of the Constitution, you have a duty to "take care that the laws be faithfully executed?"

Response to Request No. 3:

Article II, Section 3 (not Section 2), of the Constitution states that the President "shall take Care that the Laws be faithfully executed," and that is a Presidential obligation.

4. Do you admit or deny that you are a member of the bar and officer of the court of a state of the United States, subject to the rules of professional responsibility and ethics applicable to the bar of that state?

Response to Request No. 4:

I have an active license to practice law (inactive for continuing legal education purposes) issued by the Supreme Court of Arkansas. The license, No. 73017, was issued in 1973.

5. Do you admit or deny that you took an oath in which you swore or affirmed to tell the truth, the whole truth, and nothing but the truth, in a deposition conducted as part of a judicial proceeding in the case of *Jones v. Clinton* on January 17, 1998?

Response to Request No. 5:

I took an oath to tell the truth on January 17, 1998, before my deposition in the Jones v. Clinton case. While I do not recall the precise wording of that oath, as I previously stated in my grand jury testimony on August 17, 1998, in taking the oath "I believed then that I had to answer the questions truthfully." App. at 458.^{1/}

6. Do you admit or deny that you took an oath in which you swore or affirmed to tell the truth, the whole truth, and nothing but the truth, before a grand jury empanelled as part of a judicial proceeding by the United States District Court for the District of Columbia Circuit on August 17, 1998?

Response to Request No. 6:

As the August 17, 1998, videotape reflects, I was asked "Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth, so help you God?" and I answered, "I do."

7. Do you admit or deny that on or about October 7, 1997, you received a letter composed by Monica Lewinsky in which she expressed dissatisfaction with her search for a job in New York?

Response to Request No. 7:

At some point I learned of Ms. Lewinsky's decision to seek suitable employment in New York. I do not recall receiving a letter in which she expressed dissatisfaction about her New York job search. I understand Ms. Lewinsky has stated that she sent a note indicating her decision to seek employment in New York, but I do not believe she has said the note expressed dissatisfaction about her search for a job there. App. at 822-23 (grand jury testimony of Ms. Lewinsky).

^{1/} Citations to "App." refer to the Appendices to the Office of Independent Counsel Referral to the United States House of Representatives, as published by the House Judiciary Committee. Citations to "Supp." refer to the Supplemental Materials to the Office of Independent Counsel Referral, as published by the House Judiciary Committee. Citations to "Dep." refer to my January 17, 1998, deposition testimony in the civil case, Jones v. Clinton, No. LR-C-94-290 (E.D. Ark.).

8. Do you admit or deny that you telephoned Monica Lewinsky early in the morning on October 10, 1997, and offered to assist her in finding a job in New York?

Response to Request No. 8:

I understand that Ms. Lewinsky testified that I called her on the 9th of October, 1997. App. at 823 (grand jury testimony of Ms. Lewinsky). I do not recall that particular telephone call.

9. Do you admit or deny that on or about October 11, 1997, you met with Monica Lewinsky in or about the Oval Office dining room?
10. Do you admit or deny that on or about October 11, 1997, Monica Lewinsky furnished to you, in or about the Oval Office dining room, a list of jobs in New York in which she was interested?
11. Do you admit or deny that on or about October 11, 1997, you suggested to Monica Lewinsky that Vernon Jordan may be able to assist her in her job search?
12. Do you admit or deny that on or about October 11, 1997, after meeting with Monica Lewinsky and discussing her search for a job in New York, you telephoned Vernon Jordan?

Response to Request Nos. 9, 10, 11 and 12:

At some point, Ms. Lewinsky either discussed with me or gave me a list of the kinds of jobs she was interested in, although I do not know whether it was on Saturday, October 11, 1997. Records included in the OIC Referral indicate that Ms. Lewinsky visited the White House on October 11, 1997, App. at 2594, and I may have seen her on that day.

I do not believe I suggested to Ms. Lewinsky that Mr. Jordan might be able to assist her in her job search, and I understand that Ms. Lewinsky has stated that she asked me if Mr. Jordan could assist her in finding a job in New York. App. at 1079 (grand jury testimony of Ms. Lewinsky); App. at 1393 (7/27/98 FBI Form 302 Interview of Ms. Lewinsky); App. at 1461-62 (7/31/98 FBI Form 302 Interview of Ms. Lewinsky).

I speak to Mr. Jordan often, and I understand that records included in the OIC Referral indicate that he telephoned me shortly after Ms. Lewinsky left the White House complex. Supp. at 1836, 1839. I understand that Mr. Jordan testified

that he and I did not discuss Ms. Lewinsky during that call. Supp. at 1793-94 (grand jury testimony of Vernon Jordan).

13. Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, a plan in which she would pretend to bring you papers with a work-related purpose, when in fact such papers had no work-related purpose, in order to conceal your relationship?
14. Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, that Betty Currie should be the one to clear Ms. Lewinsky in to see you so that Ms. Lewinsky could say that she was visiting with Ms. Currie instead of with you?
15. Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, that if either of you were questioned about the existence of your relationship you would deny its existence?
19. Do you admit or deny that on or about December 17, 1997, you suggested to Monica Lewinsky that she could say to anyone inquiring about her relationship with you that her visits to the Oval Office were for the purpose of visiting with Betty Currie or to deliver papers to you?

Response to Request Nos. 13, 14, 15, and 19:

I was asked essentially these same questions by OIC lawyers. I testified that Ms. Lewinsky and I "may have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of that conversation." App. at 569. That continues to be my recollection today -- that is, any such conversation was not in connection with her status as a witness in the Jones v. Clinton case.

16. Do you admit or deny that on or about December 6, 1997, you learned that Monica Lewinsky's name was on a witness list in the case of *Jones v. Clinton*?

Response to Request No. 16:

As I stated in my August 17th grand jury testimony, I believe that I found out that Ms. Lewinsky's name was on a witness list in the *Jones v. Clinton* case late in the afternoon on the 6th of December, 1997. App. at 535.

17. Do you admit or deny that on or about December 17, 1997, you told Monica Lewinsky that her name was on the witness list in the case of *Jones v. Clinton*?
18. Do you admit or deny that on or about December 17, 1997, you suggested to Monica Lewinsky that the submission of an affidavit in the case of *Jones v. Clinton* might suffice to prevent her from having to testify personally in that case?

Response to Requests Nos. 17 and 18:

As I previously testified, I recall telephoning Ms. Lewinsky to tell her Ms. Currie's brother had died, and that call was in the middle of December. App. at 567. I do not recall other particulars of such a call, including whether we discussed the fact that her name was on the *Jones v. Clinton* witness list. As I stated in my August 17th grand jury testimony in response to essentially the same questions, it is "quite possible that that happened I don't have any memory of it, but I certainly wouldn't dispute that I might have said that [she was on the witness list]." App. at 567.

I recall that Ms. Lewinsky asked me at some time in December whether she might be able to get out of testifying in the *Jones v. Clinton* case because she knew nothing about Ms. Jones or the case. I told her I believed other witnesses had executed affidavits, and there was a chance they would not have to testify. As I stated in my August 17th grand jury testimony, "I felt strongly that . . . [Ms. Lewinsky] could execute an affidavit that would be factually truthful, that might get her out of having to testify." App. at 571. I never asked or encouraged Ms. Lewinsky to lie in her affidavit, as Ms. Lewinsky herself has confirmed. See App. at 718 (2/1/98 handwritten proffer of Ms. Lewinsky); see also App. at 1161 (grand jury testimony of Ms. Lewinsky).

19. For the Response to Request No. 19, see Response to Request No. 13 *et al.*, *supra*.

20. Do you admit or deny that you gave false and misleading testimony under oath when you stated during your deposition in the case of *Jones v. Clinton* on January 17, 1998, that you did not know if Monica Lewinsky had been subpoenaed to testify in that case?

Response to Request No. 20:

It is evident from my testimony on pages 69 to 70 of the deposition that I did know on January 17, 1998, that Ms. Lewinsky had been subpoenaed in the *Jones v. Clinton* case. Ms. Jones' lawyer's question, "Did you talk to Mr. Lindsey about what action, if any, should be taken as a result of her being served with a subpoena?", and my response, "No," *id.* at 70, reflected my understanding that Ms. Lewinsky had been subpoenaed. That testimony was not false and misleading.

21. Do you admit or deny that you gave false and misleading testimony under oath when you stated before the grand jury on August 17, 1998, that you did know prior to January 17, 1998, that Monica Lewinsky had been subpoenaed to testify in the case of *Jones v. Clinton*?

Response to Request No. 21:

As my testimony on January 17 reflected, and as I testified on August 17, 1998, I knew prior to January 17, 1998, that Ms. Lewinsky had been subpoenaed to testify in *Jones v. Clinton*. App. at 487. That testimony was not false and misleading.

22. Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding her moving to New York?

Response to Request No. 22:

When I met with Ms. Lewinsky on December 28, 1997, I knew she was planning to move to New York, and we discussed her move.

23. Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House in which you suggested to her that she move to New York soon because by moving to New York, the lawyers representing Paula Jones in the case of *Jones v. Clinton* may not contact her?

Response to Request No. 23:

Ms. Lewinsky had decided to move to New York well before the end of December 1997. By December 28, Ms. Lewinsky had been subpoenaed. I did not suggest that she could avoid testifying in the *Jones v. Clinton* case by moving to New York.

24. Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding gifts you had given to Ms. Lewinsky that were subpoenaed in the case of *Jones v. Clinton*?
25. Do you admit or deny that on or about December 28, 1997, you expressed concern to Monica Lewinsky about a hatpin you had given to her as a gift which had been subpoenaed in the case of *Jones v. Clinton*?

Response to Request Nos. 24 and 25:

As I told the grand jury, "Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me," App. at 495, but I do not know whether that conversation occurred on December 28, 1997, or earlier. *Ibid*. Whenever this conversation occurred, I testified, I told her "that if they asked her for gifts, she'd have to give them whatever she had" App. at 495. I simply was not concerned about the fact that I had given her gifts. *See* App. at 495-98. Indeed, I gave her additional gifts on December 28, 1997. I also told the grand jury that I do not recall Ms. Lewinsky telling me that the subpoena specifically called for a hat pin that I had given her. App. at 496.

26. Do you admit or deny that on or about December 28, 1997, you discussed with Betty Currie gifts previously given by you to Monica Lewinsky?
27. Do you admit or deny that on or about December 28, 1998, you requested, instructed, suggested to or otherwise discussed with Betty Currie that she take possession of gifts previously given to Monica Lewinsky by you?

Response to Request Nos. 26 and 27:

I do not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts I had previously given to Ms. Lewinsky. I never told Ms.

Currie to take possession of gifts I had given Ms. Lewinsky; I understand Ms. Currie has stated that Ms. Lewinsky called Ms. Currie to ask her to hold a box. See Supp. at 531.

28. Do you admit or deny that you had a telephone conversation on January 6, 1998, with Vernon Jordan during which you discussed Monica Lewinsky's affidavit, yet to be filed, in the case of *Jones v. Clinton*?

Response to Request No. 28:

White House records included in the OIC Referral reflect that I spoke to Mr. Jordan on January 6, 1998. Supp. at 1886. I do not recall whether we discussed Ms. Lewinsky's affidavit during a telephone call on that date.

29. Do you admit or deny that you had knowledge of the fact that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton* on January 7, 1998?
30. Do you admit or deny that on or about January 7, 1998, you had a discussion with Vernon Jordan in which he mentioned that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton*?

Response to Request Nos. 29 and 30:

As I testified to the grand jury, "I believe that [Mr. Jordan] did notify us" when she signed her affidavit. App. at 525. While I do not recall the timing, as I told the grand jury, I have no reason to doubt Mr. Jordan's statement that he notified me about the affidavit around January 7, 1998. Ibid.

31. Do you admit or deny that on or about January 7, 1998, you had a discussion with Vernon Jordan in which he mentioned that he was assisting Monica Lewinsky in finding a job in New York?

Response to Request No. 31:

I told the grand jury that I was aware that Mr. Jordan was assisting Ms. Lewinsky in her job search in connection with her move to New York. App. at 526. I have no recollection as to whether Mr. Jordan discussed it with me on or about January 7, 1998.

32. Do you admit or deny that you viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, prior to your deposition in that case?
33. Do you admit or deny that you had knowledge that your counsel viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, prior to your deposition in that case?

Response to Request Nos. 32 and 33:

I do not believe I saw this affidavit before my deposition, although I cannot be absolutely sure. The record indicates that my counsel had seen the affidavit at some time prior to the deposition. See Dep. at 54.

34. Do you admit or deny that you had knowledge that any facts or assertions contained in the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton* were not true?
40. Do you admit or deny that during your deposition in the case of *Jones v. Clinton* on January 17, 1998, you affirmed that the facts or assertions stated in the affidavit executed by Monica Lewinsky on January 7, 1998, were true?

Response to Request Nos. 34 and 40:

I was asked at my deposition in January about two paragraphs of Ms. Lewinsky's affidavit. With respect to Paragraph 6, I explained the extent to which I was able to attest to its accuracy. Dep. at 202-03.

With respect to Paragraph 8, I stated in my deposition that it was true. Dep. at 204. In my August 17th grand jury testimony, I sought to explain the basis for that deposition answer: "I believe at the time that she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate." App. at 473.

35. Do you admit or deny that you viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, at your deposition in that case on January 17, 1998?

36. Do you admit or deny that you had knowledge that your counsel viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, at your deposition in that case on January 17, 1998?

Response to Request Nos. 35 and 36:

I know that Mr. Bennett saw Ms. Lewinsky's affidavit during the deposition because he read portions of it aloud at the deposition. *See* Dep. at 202. I do not recall whether I saw a copy of Ms. Lewinsky's affidavit during the deposition.

37. Do you admit or deny that on or about January 9, 1998, you received a message from Vernon Jordan indicating that Monica Lewinsky had received a job offer in New York?

Response to Request No. 37:

At some time, I learned that Ms. Lewinsky had received a job offer in New York. However, I do not recall whether I first learned it in a message from Mr. Jordan or whether I learned it on that date.

38. Do you admit or deny that between January 9, 1998, and January 15, 1998, you had a conversation with Erskine Bowles in the Oval Office in which you stated that Monica Lewinsky received a job offer and had listed John Hilley as a reference?

39. Do you admit or deny that you asked Erskine Bowles if he would ask John Hilley to give Ms. Lewinsky a positive job recommendation?

Response to Request Nos. 38 and 39:

As I testified to the grand jury, I recall at some point talking to Mr. Bowles "about whether Monica Lewinsky could get a recommendation that was not negative from the Legislative Affairs Office," or that "was at least neutral," although I am not certain of the date of the conversation. App. at 562-64. To suggest that I told Mr. Bowles that Ms. Lewinsky had received a job offer and had listed John Hilley as a reference is, as I testified, a "little bit" inconsistent with my memory. App. at 564. It is possible, as I also indicated, that she had identified Mr. Hilley as her supervisor on her resume and in that respect had already listed him as a reference. *Ibid.*

40. For the Response to Request No. 40, see Response to Request No. 34, et al., supra.
41. As to each, do you admit or deny that you gave the following gifts to Monica Lewinsky at any time in the past?
- a. A lithograph
 - b. A hatpin
 - c. A large "Black Dog" canvas bag
 - d. A large "Rockettes" blanket
 - e. A pin of the New York skyline
 - f. A box of "cherry chocolates"
 - g. A pair of novelty sunglasses
 - h. A stuffed animal from the "Black Dog"
 - i. A marble bear's head
 - j. A London pin
 - k. A shamrock pin
 - l. An Annie Lennox compact disc
 - m. Davidoff cigars

Response to Request No. 41:

In my deposition in the Jones case, I testified that I "certainly . . . could have" given Ms. Lewinsky a hat pin and that I gave her "something" from the Black Dog. Dep. at 75-76. In my grand jury testimony, I indicated that in late December 1997, I gave Ms. Lewinsky a Canadian marble bear's head carving, a Rockettes blanket, some kind of pin, and a bag (perhaps from the Black Dog) to hold these objects. App. at 484-487. I also stated that I might have given her such gifts as a box of candy and sunglasses, although I did not recall doing so, and I specifically testified that I had given Ms. Lewinsky gifts on other occasions. App. at 487. I do not remember giving her the other gifts listed in Question 41, although I might have. As I have previously testified, I receive a very large number of gifts from many different people, sometimes several at a time. I also give a very large number of gifts. I gave Ms. Lewinsky gifts, some of which I remember and some of which I do not.

42. Do you admit or deny that when asked on January 17, 1998, in your deposition in the case of *Jones v. Clinton* if you had ever given gifts to Monica Lewinsky, you stated that you did not recall, even though you actually had knowledge of giving her gifts in addition to gifts from the "Black Dog"?

Response to Request No. 42:

In my grand jury testimony, I was asked about this same statement. I explained that my full response was "I don't recall. Do you know what they were?" By that answer, I did not mean to suggest that I did not recall giving gifts; rather, I meant that I did not recall what the gifts were, and I asked for reminders. See App. at 502-03.

43. Do you admit or deny that you gave false and misleading testimony under oath in your deposition in the case of *Jones v. Clinton* when you responded "once or twice" to the question "has Monica Lewinsky ever given you any gifts?"

Response to Request No. 43:

My testimony was not false and misleading. As I have testified previously, I give and receive numerous gifts. Before my January 17, 1998, deposition, I had not focused on the precise number of gifts Ms. Lewinsky had given me. App. at 495-98. My deposition testimony made clear that Ms. Lewinsky had given me gifts; at the deposition, I recalled "a book or two" and a tie. Dep. at 77. At the time, those were the gifts I recalled. In response to OIC inquiries, after I had had a chance to search my memory and refresh my recollection, I was able to be more responsive. However, as my counsel have informed the OIC, in light of the very large number of gifts I receive, there might still be gifts from Ms. Lewinsky that I have not identified.

44. Do you admit or deny that on January 17, 1998, at or about 5:38 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Vernon Jordan at his home?

Response to Request No. 44:

I speak to Mr. Jordan frequently, so I cannot remember specific times and dates. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's residence on January 17, 1998, at or about 5:38 p.m. App. at 2876.

45. Do you admit or deny that on January 17, 1998, at or about 7:02 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Betty Currie at her home?

46. Do you admit or deny that on January 17, 1998, at or about 7:02 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Vernon Jordan at his office?
47. Do you admit or deny that on January 17, 1998, at or about 7:13 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Betty Currie at her home and asked her to meet with you the next day, Sunday, January 18, 1998?

Response to Request Nos. 45, 46 and 47:

According to White House records included in the OIC Referral, I placed a telephone call to Ms. Currie at her residence at 7:02 p.m. and spoke to her at or about 7:13 p.m. App. at 2877. I recall that when I spoke to her that evening, I asked if she could meet with me the following day. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's office on January 17, 1998, at or about 7:02 p.m. Ibid.

48. Do you admit or deny that on January 18, 1998, at or about 6:11 a.m., you learned of the existence of tapes of conversations between Monica Lewinsky and Linda Tripp recorded by Linda Tripp?

Response to Request No. 48:

I did not know on January 18, 1998 that tapes existed of conversations between Ms. Lewinsky and Ms. Tripp recorded by Ms. Tripp. At some point on Sunday, January 18, 1998, I knew about the Drudge Report. I understand that, while the Report talked about tapes of phone conversations, it did not identify Ms. Lewinsky by name and did not mention Ms. Tripp at all. The Report did not state who the parties to the conversations were or who taped the conversations.

49. Do you admit or deny that on January 18, 1998, at or about 12:50 p.m., you telephoned Vernon Jordan at his home?

Response to Request No. 49:

According to White House records included in the OIC Referral, I telephoned Mr. Jordan's residence on January 18, 1998, at or about 12:50 p.m. App. at 2878.

50. Do you admit or deny that on January 18, 1998, at or about 1:11 p.m., you telephoned Betty Currie at her home?

Response to Request No. 50:

According to White House records included in the OIC Referral, I telephoned Ms. Currie's residence on January 18, 1998, at or about 1:11 p.m. App. at 2878.

51. Do you admit or deny that on January 18, 1998, at or about 2:55 p.m., you received a telephone call from Vernon Jordan?

Response to Request No. 51:

According to White House records included in the OIC Referral, Mr. Jordan telephoned me from his residence on January 18, 1998, at or about 2:55 p.m. App. at 2879.

52. Do you admit or deny that on January 18, 1998, at or about 5:00 p.m., you had a meeting with Betty Currie at which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?

- a. "You were always there when she was there, right? We were never really alone."
- b. "You could see and hear everything."
- c. "Monica came on to me, and I never touched her right?"
- d. "She wanted to have sex with me and I couldn't do that."

Response to Request No. 52:

When I met with Ms. Currie, I believe that I asked her certain questions, in an effort to get as much information as quickly as I could, and made certain statements, although I do not remember exactly what I said. See App. at 508.

Some time later, I learned that the Office of Independent Counsel was involved and that Ms. Currie was going to have to testify before the grand jury. After learning this, I stated in my grand jury testimony, I told Ms. Currie, "Just relax, go in there and tell the truth." App. at 591.

53. Do you admit or deny that you had a conversation with Betty Currie within several days of January 18, 1998, in which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?

- a. "You were always there when she was there, right? We were never really alone."
- b. "You could see and hear everything."
- c. "Monica came on to me, and I never touched her right?"
- d. "She wanted to have sex with me and I couldn't do that."

Response to Request No. 53:

I previously told the grand jury that, "I don't know that I" had another conversation with Ms. Currie within several days of January 18, 1998, in which I made statements similar to those quoted above. "I remember having this [conversation] one time." App. at 592. I further explained, "I do not remember how many times I talked to Betty Currie or when. I don't. I can't possibly remember that. I do remember, when I first heard about this story breaking, trying to ascertain what the facts were, trying to ascertain what Betty's perception was. I remember that I was highly agitated, understandably, I think." App. at 593.

I understand that Ms. Currie has said a second conversation occurred the next day that I was in the White House (when she was). Supp. at 535-36, which would have been Tuesday, January 20, before I knew about the grand jury investigation.

54. Do you admit or deny that on January 18, 1998, at or about 11:02 p.m., you telephoned Betty Currie at her home?

Response to Request No. 54:

According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 18, 1998, at or about 11:02 p.m. App. at 2881.

55. Do you admit or deny that on Monday, January 19, 1998, at or about 8:50 a.m., you telephoned Betty Currie at her home?

Response to Request No. 55:

According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 19, 1998, at or about 8:50 a.m. App. at 3147.

56. Do you admit or deny that on Monday, January 19, 1998, at or about 8:56 a.m., you telephoned Vernon Jordan at his home?

Response to Request No. 56:

According to White House records included in the OIC Referral, I called Mr. Jordan's residence on January 19, 1998, at or about 8:56 a.m. App. at 2864.

57. Do you admit or deny that on Monday, January 19, 1998, at or about 10:58 a.m., you telephoned Vernon Jordan at his office?

Response to Request No. 57:

According to White House records included in the OIC Referral, I called Mr. Jordan's office on January 19, 1998, at or about 10:58 a.m. App. at 2883.

58. Do you admit or deny that on Monday, January 19, 1998, at or about 1:45 p.m., you telephoned Betty Currie at her home?

Response to Request No. 58:

According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 19, 1998, at or about 1:45 p.m. App. at 2883.

59. Do you admit or deny that on Monday, January 19, 1998, at or about 2:44 p.m., you met with individuals including Vernon Jordan, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, and Rahm Emanuel?
60. Do you admit or deny that on Monday, January 19, 1998, at or about 2:44 p.m., at any meeting with Vernon Jordan, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, Rahm Emanuel, and others, you

discussed the existence of tapes of conversations between Monica Lewinsky and Linda Tripp recorded by Linda Tripp, or any other matter related to Monica Lewinsky?

Response to Request Nos. 59 and 60:

I do not believe such a meeting occurred. White House records included in the OIC Referral indicate that Mr. Jordan entered the White House complex that day at 2:44 p.m. Supp. at 1995. According to Mr. Jordan's testimony, he and I met alone in the Oval Office for about 15 minutes. Supp. at 1763 (grand jury testimony of Vernon Jordan).

I understand that Mr. Jordan testified that we discussed Ms. Lewinsky at that meeting and also the Drudge Report, in addition to other matters. Supp. at 1763. Please also see my Response to Request No. 48, supra.

61. Do you admit or deny that on Monday, January 19, 1998, at or about 5:56 p.m., you telephoned Vernon Jordan at his office?

Response to Request No. 61:

According to White House records included in the OIC Referral, I called Mr. Jordan's office on January 19, 1998, at or about 5:56 p.m. App. at 2883.

62. Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Sidney Blumenthal, in which you stated that you rebuffed alleged advances from Monica Lewinsky and in which you made a statement similar to the following?: "Monica Lewinsky came at me and made a sexual demand on me."
63. Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Sidney Blumenthal, in which you made a statement similar to the following in response to a question about your conduct with Monica Lewinsky?: "I haven't done anything wrong."
64. Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Erskine Bowles, Sylvia Matthews and John Podesta, in which you made a statement similar to the

following?: "I want you to know I did not have sexual relationships with this woman Monica Lewinsky. I did not ask anybody to lie. And when the facts come out, you'll understand."

65. Do you admit or deny that on or about January 23, 1998, you had a conversation with John Podesta, in which you stated that you had never had an affair with Monica Lewinsky?
66. Do you admit or deny that on or about January 23, 1998, you had a conversation with John Podesta, in which you stated that you were not alone with Monica Lewinsky in the Oval Office, and that Betty Currie was either in your presence or outside your office with the door open while you were visiting with Monica Lewinsky?
67. Do you admit or deny that on or about January 26, 1998, you had a conversation with Harold Ickes, in which you made statements to the effect that you did not have an affair with Monica Lewinsky?
68. Do you admit or deny that on or about January 26, 1998, you had a conversation with Harold Ickes, in which you made statements to the effect that you had not asked anyone to change their story, suborn perjury or obstruct justice if called to testify or otherwise respond to a request for information from the Office of Independent Counsel or in any other legal proceeding?

Responses to Requests Nos. 62 - 68:

As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.

69. Do you admit or deny that on or about January 21, 1998, you and Richard "Dick" Morris discussed the possibility of commissioning a poll to determine public opinion following the *Washington Post* story regarding the Monica Lewinsky matter?
70. Do you admit or deny that you had a later conversation with Richard "Dick" Morris in which he stated that the polling results regarding the Monica Lewinsky matter suggested that the American people would forgive you for adultery but not for perjury or obstruction of justice?

71. Do you admit or deny that you responded to Richard "Dick" Morris's explanation of these polling results by making a statement similar to the following: "[w]ell, we just have to win, then"?

Response to Request Nos. 69, 70 and 71:

At some point after the OIC investigation became public, Dick Morris volunteered to conduct a poll on the charges reported in the press. He later called back. What I recall is that he said the public was most concerned about obstruction of justice or subornation of perjury. I do not recall saying, "Well, we just have to win then."

72. Do you admit or deny the past or present existence of or the past or present direct or indirect employment of individuals, other than counsel representing you, whose duties include making contact with or gathering information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 72:

I cannot respond to this inquiry because of the vagueness of its terms (e.g., "indirect," "potential," "could be involved"). To the extent it may be interpreted to apply to individuals assisting counsel, please see my responses to Request Nos. 73-75, *infra*. To the extent the inquiry addresses specific individuals, as in Request Nos. 73-75, *infra*, I have responded and stand ready to respond to any other specific inquiries.

73. Do you admit or deny having knowledge that Terry Lenzner was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 73:

My counsel stated publicly on February 24, 1998, that Mr. Terry Lenzner and his firm have been retained since April 1994 by two private law firms that represent me. It is commonplace for legal counsel to retain such firms to perform legal and appropriate tasks to assist in the defense of clients. See also Response to No. 72.

74. Do you admit or deny having knowledge that Jack Palladino was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 74:

My understanding is that during the 1992 Presidential Campaign, Mr. Jack Palladino was retained to assist legal counsel for me and the Campaign on a variety of matters arising during the Campaign. See also Response to No. 72.

75. Do you admit or deny having knowledge that Betsy Wright was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 75:

Ms. Betsey Wright was my long-time chief of staff when I was Governor of Arkansas, and she remains a good friend and trusted advisor. Because of her great knowledge of Arkansas, from time to time my legal counsel and I have consulted with her on a wide range of matters. See also Response to No. 72.

76. Do you admit or deny that you made false and misleading public statements in response to questions asked on or about January 21, 1998, in an interview with Roll Call, when you stated "Well, let me say, the relationship was not improper, and I think that's important enough to say. But because the investigation is going on and because I don't know what is out - what's going to be asked of me, I think I need to cooperate, answer the questions, but I think it's important for me to make it clear what is not. And then, at the appropriate time, I'll try to answer what is. But let me answer - it is not an improper relationship and I know what the word means."?

Response to Request No. 76:

The tape of this interview reflects that in fact I said: "Well, let me say the relationship's not improper and I think that's important enough to say . . ." With that revision, the quoted words accurately reflect my remarks. As I stated in Response to Request Nos. 62 to 68, in the days following the January 21, 1998, disclosures, I misled people about this relationship, for which I have apologized.

1998, in the Oval Office during a photo opportunity, when you stated "Now, there are a lot of other questions that are, I think, very legitimate. You have a right to ask them; you and the American people have a right to get answers. We are working very hard to comply and get all the requests for information up here, and we will give you as many answers as we can, as soon as we can, at the appropriate time, consistent with our obligation to also cooperate with the investigations. And that's not a dodge, that's really [what] I've - I've talked with [our] people. I want to do that. I'd like for you to have more rather than less, sooner rather than later. So we'll work through it as quickly as we can and get all those questions out there to you."

Response to Request No. 77:

I made this statement (as corrected), according to a transcript of a January 22, 1998 photo opportunity in the Oval Office. This statement was not false and misleading. It accurately represented my thinking.

78. Do you admit or deny that you discussed with Harry Thomason, prior to making public statements in response to questions asked by the press in January, 1998, relating to your relationship with Monica Lewinsky, what such statements should be or how they should be communicated?

Response to Request No. 78:

Mr. Thomason was a guest at the White House in January 1998, and I recall his encouraging me to state my denial forcefully.

79. Do you admit or deny that you made a false and misleading public statement in response to a question asked on or about January 26, 1998, when you stated "But I want to say one thing to the American people. I want you to listen to me. I'm going to say this again. I did not have sexual relations with that woman, Ms. Lewinsky?"

Response to Request No. 79:

I made this statement on January 26, 1998, although not in response to any question. In referring to "sexual relations", I was referring to sexual

intercourse. See also App. at 475. As I stated in Response to Request Nos. 62 to 68, in the days following the January 21, 1998, disclosures, answers like this misled people about this relationship, for which I have apologized.

80. Do you admit or deny that you made a false and misleading public statement in response to a question asked on or about January 26, 1998, when you stated "...I never told anybody to lie, not a single time. Never?"

Response to Request No. 80:

This statement was truthful: I did not tell Ms. Lewinsky to lie, and I did not tell anybody to lie about my relationship with Ms. Lewinsky. I understand that Ms. Lewinsky also has stated that I never asked or encouraged her to lie. See App. at 718 (2/1/98 handwritten proffer of Ms. Lewinsky); see also App. at 1161 (grand jury testimony of Ms. Lewinsky).

81. Do you admit or deny that you directed or instructed Bruce Lindsey, Sidney Blumenthal, Nancy Hernreich and Lanny Breuer to invoke executive privilege before a grand jury empanelled as part of a judicial proceeding by the United States District Court for the District of Columbia Circuit in 1998?

Response to Request No. 81:

On the recommendation of Charles Ruff, Counsel to the President, I authorized Mr. Ruff to assert the presidential communications privilege (which is one aspect of executive privilege) with respect to questions that might be asked of witnesses called to testify before the grand jury to the extent that those questions sought disclosure of matters protected by that privilege. Thereafter, I understand that the presidential communications privilege was asserted as to certain questions asked of Sidney Blumenthal and Nancy Hernreich. Further, I understand that, as to Mr. Blumenthal and Ms. Hernreich, all claims of official privilege were subsequently withdrawn and they testified fully on several occasions before the grand jury.

Mr. Lindsey and Mr. Breuer testified at length before the grand jury about a wide range of matters, but declined, on the advice of the White House Counsel, to answer certain questions that sought disclosure of discussions that they had with me and my senior advisors concerning, among other things, their legal advice as to the assertion of executive privilege. White House Counsel advised Mr. Lindsey and Mr. Breuer that these communications were protected by the attorney-

client privilege, as well as executive privilege. Mr. Lindsey also asserted my personal attorney-client privilege as to certain questions relating to his role as an intermediary between me and my personal counsel in the Jones v. Clinton case, a privilege that was upheld by the federal appeals court in the District of Columbia.


WILLIAM JEFFERSON CLINTON

Subscribed and sworn to before me
this 27th day of November, 1998.

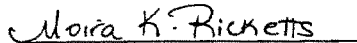

Notary Public
MOIRA K. RICKETTS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 28, 2003

EXHIBIT 19

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1 full responsibility for it. It wasn't her fault, it was
2 mine. I do not believe that I violated the definition of
3 sexual relations I was given by directly touching those parts
4 of her body with the intent to arouse or gratify. And that's
5 all I have to say.

6 I think, for the rest, you know, you know what the
7 evidence is and it doesn't affect that statement.

8 Q Is it possible or impossible that your semen is on
9 a dress belonging to Ms. Lewinsky?

10 A I have nothing to add to my statement about it,
11 sir. You, you know whether -- you know what the facts are.
12 There's no point in a hypothetical.

13 Q Don't you know what the facts are also, Mr.
14 President?

15 A I have nothing to add to my statement, sir.

16 Q Getting back to the conversation you had with Mrs.
17 Currie on January 18th, you told her -- if she testified that
18 you told her, Monica came on to me and I never touched her,
19 you did, in fact, of course, touch Ms. Lewinsky, isn't that
20 right, in a physically intimate way?

21 A Now, I've testified about that. And that's one of
22 those questions that I believe is answered by the statement
23 that I made.

24 Q What was your purpose in making these statements to
25 Mrs. Currie, if they weren't for the purpose to try to

EXHIBIT 20

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1 Do you recall meeting with him around January 23rd.
2 1998, a Friday a.m. in your study, two days after The
3 Washington Post story, and extremely explicitly telling him
4 that you didn't have, engage in any kind of sex, in any way,
5 shape or form, with Monica Lewinsky, including oral sex?

6 A I meet with John Podesta almost every day. I meet
7 with a number of people. The only thing I -- what happened
8 in the couple of days after what you did was revealed, is a
9 blizzard to me. The only thing I recall is that I met with
10 certain people, and a few of them I said I didn't have sex
11 with Monica Lewinsky, or I didn't have an affair with her or
12 something like that. I had a very careful thing I said, and
13 I tried not to say anything else.

14 And it might be that John Podesta was one of them.
15 But I do not remember this specific meeting about which you
16 asked, or the specific comments to which you refer. And --

17 Q You don't remember --

18 A -- seven months ago, I'd have no way to remember,
19 no.

20 Q You don't remember denying any kind of sex in any
21 way, shape or form, and including oral sex, correct?

22 A I remember that I issued a number of denials to
23 people that I thought needed to hear them, but I tried to be
24 careful and to be accurate, and I do not remember what I said
25 to John Podesta.

Clinton Grand Jury (8/17/98)

1 sexual relationship with Monica Lewinsky to those
2 individuals?

3 A I recall telling a number of those people that I
4 didn't have, either I didn't have an affair with Monica
5 Lewinsky or didn't have sex with her. And I believe, sir,
6 that -- you'll have to ask them what they thought. But I was
7 using those terms in the normal way people use them. You'll
8 have to ask them what they thought I was saying.

9 Q If they testified that you denied sexual relations
10 or relationship with Monica Lewinsky, or if they told us that
11 you denied that, do you have any reason to doubt them, in the
12 days after the story broke; do you have any reason to doubt
13 them?

14 A No. The -- let me say this. It's no secret to
15 anybody that I hoped that this relationship would never
16 become public. It's a matter of fact that it had been many,
17 many months since there had been anything improper about it,
18 in terms of improper contact. I --

19 Q Did you deny it to them or not, Mr. President?

20 A Let me finish. So, what -- I did not want to
21 mislead my friends, but I wanted to find language where I
22 could say that. I also, frankly, did not want to turn any of
23 them into witnesses, because I -- and, sure enough, they all
24 became witnesses.

25 Q Well, you know they might be --

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1 A And so --

2 Q -- witnesses, didn't you?

3 A And so I said to them things that were true about
4 this relationship. That I used -- in the language I used, I
5 said, there's nothing going on between us. That was true. I
6 said, I have not had sex with her as I defined it. That was
7 true. And did I hope that I would never have to be here on
8 this day giving this testimony? Of course.

9 But I also didn't want to do anything to complicate
10 this matter further. So, I said things that were true. They
11 may have been misleading, and if they were I have to take
12 responsibility for it, and I'm sorry.

13 Q It may have been misleading, sir, and you knew
14 though, after January 21st when the Post article broke and
15 said that Judge Starr was looking into this, you knew that
16 they might be witnesses. You knew that they might be called
17 into a grand jury, didn't you?

18 A That's right. I think I was quite careful what I
19 said after that. I may have said something to all these
20 people to that effect, but I'll also -- whenever anybody
21 asked me any details, I said, look, I don't want you to be a
22 witness or I turn you into a witness or give you information
23 that could get you in trouble. I just wouldn't talk. I, by
24 and large, didn't talk to people about this.

25 Q If all of these people -- let's leave out Mrs.

EXHIBIT 21

William Jefferson Clinton

1 opposed to it, based on anything I knew, anyway.
2 Q. Well, have you ever given any gifts to
3 Monica Lewinsky?
4 A. I don't recall. Do you know what they
5 were?
6 Q. A hat pin?
7 A. I don't, I don't remember. But I
8 certainly, I could have. 849-DC-00000426
9 Q. A book about Walt Whitman?
10 A. I give -- let me just say, I give people a
11 lot of gifts, and when people are around I give a lot
12 of things I have at the White House away, so I could
13 have given her a gift, but I don't remember a
14 specific gift.
15 Q. Do you remember giving her a gold broach?
16 A. No.
17 Q. Do you remember giving her an item that had
18 been purchased from The Black Dog store at Martha's
19 Vineyard?
20 A. I do remember that, because when I went on
21 vacation, Betty said that, asked me if I was going to
22 bring some stuff back from The Black Dog, and she
23 said Monica loved, liked that stuff and would like to
24 have a a piece of it, and I did a lot of Christmas
25 shopping from The Black Dog, and I bought a lot of

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Clinton Deposition (1/17/93)

William Jefferson Clinton

1 things for a lot of people, and I gave Betty a couple
2 of the pieces, and she gave I think something to
3 Monica and something to some of the other girls who
4 worked in the office. I remember that because Betty
5 mentioned it to me.

6 Q. What in particular was given to Monica?

7 A. I don't remember. I got a whole bag full
8 of things that I bought at The Black Dog. I went
9 there, they gave me some things, and I went and
10 purchased a lot at their store, and when I came back
11 I gave a, a big block of it to Betty, and I don't
12 know what she did with it all or who got what.

13 Q. But while you were in the store you did
14 pick out something for Monica, correct?

15 A. While I was in the store -- first of all,
16 The Black Dog sent me a selection of things. Then I
17 went to the store and I bought some other things,
18 t-shirts, sweatshirts, shirts. Then when I got back
19 home, I took out a thing or two that I wanted to
20 keep, and I took out a thing or two I wanted to give
21 to some other people, and I gave the rest of it to
22 Betty and she distributed it. That's what I remember
23 doing.

24 Q. Has Monica Lewinsky ever given you any
25 gifts?

849-DC-00000427

William Jefferson Clinton

1 A. Once or twice. I think she's given me a
2 book or two.

3 Q. Did she give you a silver cigar box?

4 A. No. 849-DC-00000428

5 Q. Did she give you a tie?

6 A. Yes, she has given me a tie before. I
7 believe that's right. Now, as I said, let me remind
8 you, normally when I get these ties, I get ties, you
9 know, together, and then they're given to me later,
10 but I believe that she has given me a tie.

11 Q. Well, Mr. President, it's my understanding
12 that Monica Lewinsky has made statements to people,
13 and I'd like for you --

14 MR. BRISTOW: Object, object to the form of
15 the question. Counsel shouldn't testify, and when
16 you start out like that, it's obviously counsel
17 testifying. I don't think that's proper.

18 MR. BENNETT: Let me add to that, Your
19 Honor wouldn't permit me to make reference to this
20 affidavit, and I respect your ruling.

21 JUDGE WRIGHT: Let me, let me just make my
22 ruling. It is not appropriate for Counsel to make
23 comments about, about these things. I don't know
24 whether he was trying to do this to establish a good
25 faith basis for the next question or not, but it is

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Clinton Deposition (1/17/98)

William Jefferson Clinton

1 ever sent any letters from the Pentagon to Betty
2 Currie in the White House?

3 A. I don't know. You'd have to ask Betty
4 about that. It wouldn't surprise me but you'd have
5 to ask her.

6 Q. Did Betty Currie ever bring to you a
7 personal message from Monica Lewinsky that had been
8 delivered to Betty?

9 A. On a couple of occasions, Christmas card,
10 birthday card, like that.

11 Q. Do you remember anything that was written
12 in any of those?

13 A. No. Sometimes, you know, just either small
14 talk or happy birthday or sometimes, you know, a
15 suggestion about how to get more young people
16 involved in some project I was working on. Nothing
17 remarkable. I don't remember anything particular
18 about it.

19 Q. Are those kept somewhere?

849-DC-00000413

20 A. I don't think so.

21 Q. What did you do with them after you were
22 done with them?

23 A. I think I discarded them. I normally do.
24 People send me personal notes and stuff like that. I
25 just throw them away.

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Clinton Deposition (1/17/98)

EXHIBIT 22

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1 up to us?

2 MR. BENNETT: I've arranged for lunch, Your
3 Honor. We can have it -- I don't know if it's there
4 right now. We were thinking twelve-thirty, but
5 whatever --

6 JUDGE WRIGHT: That's great. That's
7 perfect.

8 MR. BENNETT: And we have a room set aside
9 for you and your law clerk where you can eat
10 privately, and we have a separate room for their side
11 of the table, and our side.

12 JUDGE WRIGHT: All right, let's take a ten
13 minute break.

849-DC-00000403

14 (Short recess.)

15 JUDGE WRIGHT: All right, Mr. Fisher, you
16 may resume.

17 MR. FISHER: Thank you, Your Honor.

18 Q. Mr. President, before the break, we were
19 talking about Monica Lewinsky. At any time were you
20 and Monica Lewinsky together alone in the Oval
21 Office?

22 A. I don't recall, but as I said, when she
23 worked at the legislative affairs office, they always
24 had somebody there on the weekends. I typically
25 worked some on the weekends. Sometimes they'd bring

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Clinton Deposition (1/17/98)

William Jefferson Clinton

1 me things on the weekends. She -- it seems to me she
2 brought things to me once or twice on the weekends.
3 In that case, whatever time she would be in there,
4 drop it off, exchange a few words and go, she was
5 there. I don't have any specific recollections of
6 what the issues were, what was going on, but when the
7 Congress is there, we're working all the time, and
8 typically I would do some work on one of the days of
9 the weekends in the afternoon.

10 Q. So I understand, your testimony is that it
11 was possible, then, that you were alone with her, but
12 you have no specific recollection of that ever
13 happening?

14 A. Yes, that's correct. It's possible that
15 she, in, while she was working there, brought
16 something to me and that at the time she brought it
17 to me, she was the only person there. That's
18 possible.

19 Q. Did it ever happen that you and she went
20 down the hallway from the Oval Office to the private
21 kitchen? 849-DC-00000404

22 MR. BENNETT: Your Honor, excuse me, Mr.
23 President, I need some guidance from the Court at
24 this point. I'm going to object to the innuendo.
25 I'm afraid, as I say, that this will leak. I don't

William Jefferson Clinton

1 kitchen, it's a little cubbyhole, and these guys keep
2 the door open. They come and go at will. Now that's
3 the factual background here.

4 Now, to go back to your question, my
5 recollection is that, that at some point during the
6 government shutdown, when Ms. Lewinsky was still an
7 intern but was working the chief staff's office
8 because all the employees had to go home, that she
9 was back there with a pizza that she brought to me
10 and to others. I do not believe she was there alone,
11 however. I don't think she was. And my recollection
12 is that on a couple of occasions after that she was
13 there but my secretary, Betty Currie, was there with
14 her. She and Betty are friends. That's my, that's
15 my recollection. And I have no other recollection of
16 that.

17 MR. FISHER: While I appreciate all of that
18 information, for the record I'm going to object.
19 It's nonresponsive as to the entire answer up to the
20 point where the deponent, said, "Now back to your
21 question."

22 Q. At any time were you and Monica Lewinsky
23 alone in the hallway between the Oval Office and this
24 kitchen area?

849-DC-00000409

25 A. I don't believe so, unless we were walking

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Clinton Deposition (1/17/98)

William Jefferson Clinton

1 back to the back dining room with the pizza. I just
2 I don't remember. I don't believe we were alone in
3 the hallway, no.

4 Q. Are there doors at both ends of the
5 hallway?

6 A. They are, and they're always open.

7 Q. At any time have you and Monica Lewinsky
8 ever been alone together in any room in the White
9 House?

10 A. I think I testified to that earlier. I
11 think that there is a, it is -- I have no specific
12 recollection, but it seems to me that she was on duty
13 on a couple of occasions working for the legislative
14 affairs office and brought me some things to sign,
15 something on the weekend. That's -- I have a general
16 memory of that.

17 Q. Do you remember anything that was said in
18 any of those meetings?

19 A. No. You know, we just have conversation, I
20 don't remember.

21 Q. How long has Betty Currie been your
22 secretary?

23 A. Since I've been President.

849-DC-00000410

24 Q. Did she also work with you in Arkansas?

25 A. Not when I was Governor. She worked in the

EXHIBIT 23

William Jefferson Clinton

1 inappropriate for counsel to comment, so I will
2 sustain the objection.

3 MR. FISHER: I understand.

4 Q. Did you have an extramarital sexual affair
5 with Monica Lewinsky?

849-DC-00000429

6 A. No.

7 Q. If she told someone that she had a sexual
8 affair with you beginning in November of 1995, would
9 that be a lie?

10 A. It's certainly not the truth. It would not
11 be the truth.

12 Q. I think I used the term "sexual affair."
13 And so the record is completely clear, have you ever
14 had sexual relations with Monica Lewinsky, as that
15 term is defined in Deposition Exhibit 1, as modified
16 by the Court?

17 MR. BENNETT: I object because I don't know
18 that he can remember --

19 JUDGE WRIGHT: Well, it's real short. He
20 can -- I will permit the question and you may show
21 the witness definition number one.

22 A. I have never had sexual relations with
23 Monica Lewinsky. I've never had an affair with her.

24 Q. Have you ever had a conversation with
25 Vernon Jordan in which Monica Lewinsky was

EXHIBIT 24

William Jefferson Clinton

1 me things on the weekends. She -- it seems to me she
2 brought things to me once or twice on the weekends.
3 In that case, whatever time she would be in there,
4 drop it off, exchange a few words and go, she was
5 there. I don't have any specific recollections of
6 what the issues were, what was going on, but when the
7 Congress is there, we're working all the time, and
8 typically I would do some work on one of the days of
9 the weekends in the afternoon.

10 Q. So I understand, your testimony is that it
11 was possible, then, that you were alone with her, but
12 you have no specific recollection of that ever
13 happening?

14 A. Yes, that's correct. It's possible that
15 she, in, while she was working there, brought
16 something to me and that at the time she brought it
17 to me, she was the only person there. That's
18 possible.

19 Q. Did it ever happen that you and she went
20 down the hallway from the Oval Office to the private
21 kitchen? 849-DC-00000404

22 MR. BENNETT: Your Honor, excuse me, Mr.
23 President, I need some guidance from the Court at
24 this point. I'm going to object to the innuendo.
25 I'm afraid, as I say, that this will leak. I don't

William Jefferson Clinton

849-DC-00000405

1 question the predicates here. I question the good
2 faith of Counsel, the innuendo in the question.
3 Counsel is fully aware that Ms. Lewinsky has filed,
4 has an affidavit which they are in possession of
5 saying that there is absolutely no sex of any kind in
6 any manner, shape or form, with President Clinton,
7 and yet listening to the innuendo in the questions --

8 JUDGE WRIGHT: No, just a minute, let me
9 make my ruling. I do not know whether counsel is
10 basing this question on any affidavit, but I will
11 direct Mr. Bennett not to comment on other evidence
12 that might be pertinent and could be arguably
13 coaching the witness at this juncture. Now, I, Mr.
14 Fisher is an officer of this Court, and I have to
15 assume that he has a good faith basis for asking this
16 question. If in fact he has no good faith basis for
17 asking the question, he could later be sanctioned.
18 If you would like, I will be happy to review in
19 camera any good faith basis he might have.

20 MR. BENNETT: Well, Your Honor, with all
21 due respect, I would like to know the proffer. I'm
22 not coaching the witness. In preparation of the
23 witness for this deposition, the witness is fully
24 aware of Ms. Lewinsky's affidavit, so I have not told
25 him a single thing he doesn't know, but I think when

William Jefferson Clinton

1 he asks questions like this where he's sitting on an
2 affidavit from the witness, he should at least have a
3 good faith proffer.

4 JUDGE WRIGHT: Now, I agree with you that
5 he needs to have a good faith basis for asking the
6 question.

7 MR. BENNETT: May we ask what it is, Your
8 Honor?

9 JUDGE WRIGHT: And I'm assuming that he
10 does, and I will be willing to review this in camera
11 if he does not want to reveal it to Counsel.

12 MR. BENNETT: Fine.

13 MR. FISHER: I would welcome an opportunity
14 to explain to the Court what our good faith basis is
15 in an in camera hearing.

16 JUDGE WRIGHT: All right.

17 MR. FISHER: I would prefer that we not
18 take the time to do that now, but I can tell the
19 Court I am very confident there is substantial
20 basis.

849-DC-00000406

21 JUDGE WRIGHT: All right, I'm going to
22 permit the question. He's an officer of the Court,
23 and as you know, Mr. Bennett, this Court has ruled on
24 prior occasions that a good faith basis can exist
25 notwithstanding the testimony of the witness, of the

EXHIBIT 25

William Jefferson Clinton

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1 do this, if this is ever used at trial, the Rules of
2 Evidence would apply, and as stated before, the Rules
3 of Evidence don't apply in this discovery
4 deposition. Go ahead.

5 Q. In paragraph eight of her affidavit, she
6 says this, "I have never had a sexual relationship
7 with the President, he did not propose that we have a
8 sexual relationship, he did not offer me employment
9 or other benefits in exchange for a sexual
10 relationship, he did not deny me employment or other
11 benefits for rejecting a sexual relationship."

12 Is that a true and accurate statement as
13 far as you know it?

14 A. That is absolutely true.

15 Q. Do you recall, do you recall --

16 MR. BENNETT: Your Honor, may I have this
17 appended as an exhibit to this deposition, please?

18 MR. FISHER: No objection, Your Honor.

19 JUDGE WRIGHT: All right, it may be.

20 MR. BENNETT: All right.

21 Q. Now you're aware, are you not, of the
22 allegations against you by Paula Corbin Jones in this
23 lawsuit; is that correct?

24 A. Yes, sir, I am.

849-DC-00000555

25 Q. Mr. President, did you ever make any sexual

EXHIBIT 26

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(1) BY MR. BITTMAN:
 (2) Q Good afternoon, Mr. President.
 (3) A Good afternoon, Mr. Bittman.
 (4) Q My name is Robert Bittman. I'm an attorney with
 (5) the Office of Independent Counsel.
 (6) Mr. President, we are first going to turn to some
 (7) of the details of your relationship with Monica Lewinsky that
 (8) follow up on your deposition that you provided in the Paula
 (9) Jones case, as was referenced, on January 17th, 1998.
 (10) The questions are uncomfortable, and I apologize
 (11) for that in advance. I will try to be as brief and direct as
 (12) possible.
 (13) Mr. President, were you physically intimate with
 (14) Monica Lewinsky?
 (15) A Mr. Bittman, I think maybe I can save the -- you
 (16) and the grand jurors a lot of time if I read a statement,
 (17) which I think will make it clear what the nature of my
 (18) relationship with Ms. Lewinsky was and how it related to the
 (19) testimony I gave, what I was trying to do in that testimony.
 (20) And I think it will perhaps make it possible for you to ask
 (21) even more relevant questions from your point of view.
 (22) And, with your permission, I'd like to read that
 (23) statement.
 (24) Q Absolutely. Please, Mr. President.
 (25) A When I was alone with Ms. Lewinsky on certain

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(1) occasions in early 1996 and once in early 1997. I engaged in
 (2) conduct that was wrong. These encounters did not consist of
 (3) sexual intercourse. They did not constitute sexual relations
 (4) as I understood that term to be defined at my January 17th,
 (5) 1998 deposition. But they did involve inappropriate intimate
 (6) contact.
 (7) These inappropriate encounters ended, at my
 (8) insistence, in early 1997. I also had occasional telephone
 (9) conversations with Ms. Lewinsky that included inappropriate
 (10) sexual banter.
 (11) I regret that what began as a friendship came to
 (12) include this conduct, and I take full responsibility for my
 (13) actions.
 (14) While I will provide the grand jury whatever other
 (15) information I can, because of privacy considerations
 (16) affecting my family, myself, and others, and in an effort to
 (17) preserve the dignity of the office I hold, this is all I will
 (18) say about the specifics of these particular matters.
 (19) I will try to answer, to the best of my ability,
 (20) other questions including questions about my relationship
 (21) with Ms. Lewinsky; questions about my understanding of the
 (22) term "sexual relations", as I understood it to be defined at
 (23) my January 17th, 1998 deposition; and questions concerning
 (24) alleged subornation of perjury, obstruction of justice, and
 (25) intimidation of witnesses

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[1] That, Mr. Bittman, is my statement.
 [2] Q Thank you, Mr. President. And, with that, we would
 [3] like to take a break.
 [4] A Would you like to have this?
 [5] Q Yes, please. As a matter of fact, why don't we
 [6] have that marked as Grand Jury Exhibit WJC-1.
 [7] (Grand Jury Exhibit WJC-1 was
 [8] marked for identification.)
 [9] THE WITNESS: So, are we going to take a break?
 [10] MR. KENDALL: Yes. We will take a break. Can we
 [11] have the camera off, now, please? And it's 1:14.
 [12] (Whereupon, the proceedings were recessed from 1:14 p.m.
 [13] until 1:30 p.m.)
 [14] MR. KENDALL: 1:30, Bob.
 [15] MR. BITTMAN: It's 1:30 and we have the feed with
 [16] the grand jury.
 [17] BY MR. BITTMAN:
 [18] Q Good afternoon again, Mr. President.
 [19] A Good afternoon, Mr. Bittman.
 [20] (Discussion off the record.)
 [21] BY MR. BITTMAN:
 [22] Q Mr. President, your statement indicates that your
 [23] contacts with Ms. Lewinsky did not involve any inappropriate,
 [24] intimate contact.
 [25] MR. KENDALL: Mr. Bittman, excuse me. The

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[1] witness -
 [2] THE WITNESS: No, sir. It indicates -
 [3] MR. KENDALL: The witness does not have -
 [4] THE WITNESS: - that it did involve inappropriate
 [5] and intimate contact.
 [6] BY MR. BITTMAN:
 [7] Q Pardon me. That it did involve inappropriate,
 [8] intimate contact.
 [9] A Yes, sir, it did.
 [10] MR. KENDALL: Mr. Bittman, the witness - the
 [11] witness does not have a copy of the statement. We just have
 [12] the one copy.
 [13] MR. BITTMAN: If he wishes -
 [14] MR. KENDALL: Thank you.
 [15] MR. BITTMAN: - his statement back?
 [16] BY MR. BITTMAN:
 [17] Q Was this contact with Ms. Lewinsky, Mr. President,
 [18] did it involve any sexual contact in any way, shape, or form?
 [19] A Mr. Bittman, I said in this statement I would like
 [20] to stay to the terms of the statement. I think it's clear
 [21] what inappropriately intimate is. I have said what it did
 [22] not include. I - it did not include sexual intercourse, and
 [23] I do not believe it included conduct which falls within the
 [24] definition I was given in the Jones deposition. And I would
 [25] like to stay with that characterization.

**IN THE SENATE OF THE UNITED STATES
SITTING AS A COURT OF IMPEACHMENT**

**In Re
Impeachment of
William Jefferson Clinton
President of the United States**

**TRIAL MEMORANDUM OF
PRESIDENT WILLIAM JEFFERSON CLINTON**

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**TRIAL MEMORANDUM OF
PRESIDENT WILLIAM JEFFERSON CLINTON**

I. INTRODUCTION

Twenty-six months ago, more than 90 million Americans left their homes and work places to travel to schools, church halls and other civic centers to elect a President of the United States. And on January 20, 1997, William Jefferson Clinton was sworn in to serve a second term of office for four years.

The Senate, in receipt of Articles of Impeachment from the House of Representatives, is now gathered in trial to consider whether that decision should be set aside for the remaining two years of the President's term. It is a power contemplated and authorized by the Framers of the Constitution, but never before employed in our nation's history. The gravity of what is at stake -- the democratic choice of the American people -- and the solemnity of the proceedings dictate that a decision to remove the President from office should follow only from the most serious of circumstances and should be done in conformity with Constitutional standards and in the interest of the Nation and its people.

The Articles of Impeachment that have been exhibited to the Senate fall far short of what the Founding Fathers had in mind when they placed in the hands of the Congress the power to impeach and remove a President from office. They fall far short of what the American people demand be shown and proven before their democratic choice is reversed. And they even fall far short of what a prudent prosecutor would require before presenting a case to a judge or jury.

Take away the elaborate trappings of the Articles and the high-flying rhetoric that has accompanied them, and we see clearly that the House of Representatives asks the Senate to remove the President from office because he:

- used the phrase "certain occasions" to describe the frequency of his improper intimate contacts with Ms. Monica Lewinsky. There were, according to the House Managers, eleven such contacts over the course of approximately 500 days.

Should the will of the people be overruled and the President of the United States be removed from office because he used the phrase "certain occasions" to describe eleven events over some 500 days? That is what the House of Representatives asks the Senate to do.

- used the word "occasional" to describe the frequency of inappropriate telephone conversations between he and Monica Lewinsky. According to Ms. Lewinsky, the President and Ms. Lewinsky engaged in between ten and fifteen such conversations spanning a 23-month period.

Should the will of the people be overruled and the President of the United States be removed from office because he used the word "occasional" to describe up to 15 telephone calls over a 23-month period? That is what the House of Representatives asks the Senate to do.

- said the improper relationship with Ms. Lewinsky began in early 1996, while she recalls that it began in November 1995. And he said the contact did not include touching certain parts of her body, while she said it did.

Should the will of the people be overruled and the President of the United States be removed from office because two people have a different recollection of the details of a

wrongful relationship -- which the President has admitted? That is what the House of Representatives asks the Senate to do.

The Articles of Impeachment are not limited to the examples cited above, but the other allegations of wrongdoing are similarly unconvincing. There is the charge that the President unlawfully obstructed justice by allegedly trying to find a job for Monica Lewinsky in exchange for her silence about their relationship. This charge is made despite the fact that no one involved in the effort to find work for Ms. Lewinsky -- including Ms. Lewinsky herself -- testifies that there was any connection between the job search and the affidavit. Indeed, the basis for that allegation, Ms. Lewinsky's statements to Ms. Tripp, was expressly repudiated by Ms. Lewinsky under oath.

There is also the charge that the President conspired to obstruct justice by arranging for Ms. Lewinsky to hide gifts that he had given her, even though the facts and the testimony contain no evidence that he did so. In fact, the evidence shows that the President gave her new gifts on the very day that the articles allege he conspired to conceal his gifts to her.

In the final analysis, the House is asking the Senate to remove the President because he had a wrongful relationship and sought to keep the existence of that relationship private.

Nothing said in this Trial Memorandum is intended to excuse the President's actions. By his own admission, he is guilty of personal failings. As he has publicly stated, "I don't think there is a fancy way to say that I have sinned." He has misled his family, his friends, his staff, and the Nation about the nature of his relationship with Ms. Lewinsky. He hoped to

avoid exposure of personal wrongdoing so as to protect his family and himself and to avoid public embarrassment. He has acknowledged that his actions were wrong.

By the same token, these actions must not be mischaracterized into a wholly groundless excuse for removing the President from the office to which he was twice elected by the American people. The allegations in the articles and the argument in the House Managers' Trial Memorandum do not begin to satisfy the stringent showing required by our Founding Fathers to remove a duly elected President from office, either as a matter of fact or law.

A. The Constitutional Standard for Impeachment Has Not Been Satisfied

There is strong agreement among constitutional and legal scholars and historians that the substance of the articles does not amount to impeachable offenses. On November 6, 1998, 430 Constitutional law professors wrote:

Did President Clinton commit "high Crimes and Misdemeanors" warranting impeachment under the Constitution? We . . . believe that the misconduct alleged in the report of the Independent Counsel . . . does not cross the threshold. . . . [I]t is clear that Members of Congress could violate their constitutional responsibilities if they sought to impeach and remove the President for misconduct, even criminal misconduct, that fell short of the high constitutional standard required for impeachment.

On October 28, 1998, more than 400 historians issued a joint statement warning that because impeachment had traditionally been reserved for high crimes and misdemeanors in the exercise of executive power, impeachment of the President based on the facts alleged in the OIC Referral would set a dangerous precedent. "If carried forward, they will leave the Presidency permanently disfigured and diminished, at the mercy as never before of caprices of any Congress. The Presidency, historically the center of leadership during our great national ordeals, will be crippled in meeting the inevitable challenges of the future."

We address why the charges in the two articles do not rise to the level of ‘high Crimes and Misdemeanors’ in Section III, Constitutional Standard and Burden of Proof.

B. The President Did Not Commit Perjury or Obstruct Justice

Article I alleges perjury before a federal grand jury. Article II alleges obstruction of justice. Both perjury and obstruction of justice are statutory crimes. In rebutting the allegations contained in the articles of impeachment, this brief refers to the facts as well as to laws, legal principles, court decisions, procedural safeguards, and the Constitution itself. Those who seek to remove the President speak of the “rule of law.” Among the most fundamental rules of law are the principles that those who accuse have the burden of proof, and those who are accused have the right to defend themselves by relying on the law, established procedures, and the Constitution. These principles are not “legalisms” but rather the very essence of the “rule of law” that distinguishes our Nation from others.

We respond, in detail, to those allegations whose substance we can decipher in Section IV, The President Should Be Acquitted on Article I, and in Section V, The President Should Be Acquitted on Article II.

C. Compound Charges and Vagueness

If there were any doubt that the House of Representatives has utterly failed in its constitutional responsibility to the Senate and to the President, that doubt vanishes upon reading the Trial Memorandum submitted by the House Managers. Having proffered two articles of impeachment, each of which unconstitutionally combines multiple offenses and fails to give even minimally adequate notice of the charges it encompasses, the House -- three days before the Managers are to open their case -- is still expanding, not refining, the scope of those articles. In further violation of the most basic constitutional principles, their brief advances, merely as

"examples," nineteen conclusory allegations -- eight of perjury under Article I and eleven of obstruction of justice under Article II, some of which have never appeared before, even in the Report submitted by the Judiciary Committee ("Committee Report"), much less in the Office of Independent Counsel ("OIC") Referral or in the articles themselves.¹ If the target the Managers present to the Senate and to the President is *still* moving now, what can the President expect in the coming days? Is there any point at which the President will be given the right accorded a defendant in the most minor criminal case -- to know with certainty the charges against which he must defend?

The Senate, we know, fully appreciates these concerns and has, in past proceedings, dealt appropriately with articles far less flawed than these. The constitutional concerns raised by the House's action are addressed in Section VI, The Structural Deficiencies of the Articles Preclude a Constitutionally Sound Vote.

II. BACKGROUND

A. The Whitewater Investigative Dead-End

The Lewinsky investigation emerged in January 1998 from the long-running Whitewater investigation. On August 5, 1994, the Special Division of the United States Court of Appeals for the District of Columbia Court Circuit appointed Kenneth W. Starr as Independent Counsel to conduct an investigation centering on two Arkansas entities, Whitewater Development Company, Inc., and Madison Guaranty Savings and Loan Association.

¹ For example, the House Managers add a charge that the President engaged in "legalistic hair-splitting [in his response to the 81 questions] in an obvious attempt to skirt the whole truth and to deceive and obstruct" the Committee. This charge was specifically rejected by the full House of Representatives when it rejected Article IV.

In the spring of 1997, OIC investigators, without any expansion of jurisdiction, interviewed Arkansas state troopers who had once been assigned to the Governor's security detail, and "[t]he troopers said Starr's investigators asked about 12 to 15 women by name, including Paula Corbin Jones. . . ." Woodward & Schmidt, "Starr Probes Clinton Personal Life," *The Washington Post* (June 25, 1997) at A1 (emphasis added). "The nature of the questioning marks a sharp departure from previous avenues of inquiry in the three-year old investigation Until now, . . . what has become a wide-ranging investigation of many aspects of Clinton's governorship has largely steered clear of questions about Clinton's relationships with women"² One of the most striking aspects of this new phase of the Whitewater investigation was the extent to which it focused on the *Jones* case. One of the troopers interviewed declared, "[t]hey asked me about Paula Jones, all kinds of questions about Paula Jones, whether I saw Clinton and Paula together and how many times."³

In his November 19, 1998, testimony before the House Judiciary Committee, Mr. Starr conceded that his agents had conducted these interrogations and acknowledged that at that time, he had not sought expansion of his jurisdiction from either the Special Division or the Attorney General.⁴ Mr. Starr contended that these inquiries were somehow relevant to his Whitewater investigation: "we were, in fact, interviewing, as good prosecutors, good

² *Ibid.* Trooper Roger Perry, a 21-year veteran of the Arkansas state police, stated that he "was asked about the most intimate details of Clinton's life: 'I was left with the impression that they wanted me to show he was a womanizer All they wanted to talk about was women.'" *Ibid.* (ellipsis in original).

³ *Ibid.*

⁴ Transcript of November 19, 1998 House Judiciary Committee Hearing at 377-378.

investigators do, individuals who would have information that may be relevant to our inquiry about the President's involvement in Whitewater, in Madison Guaranty Savings and Loan and the like."⁵ It seems irrefutable, however, that the OIC was in fact engaged in an unauthorized attempt to gather embarrassing information about the President -- information wholly unrelated to Whitewater or Madison Guaranty Savings and Loan, but potentially relevant to the lawsuit filed by Paula Jones.

B. The Paula Jones Litigation

The Paula Jones lawsuit made certain allegations about events she said had occurred three years earlier, in 1991, when the President was Governor of Arkansas. Discovery in the case had been stayed until the Supreme Court's decision on May 27, 1997, denying the President temporary immunity from suit.⁶ Shortly thereafter, Ms. Jones' legal team began a public relations offensive against the President, headed by Ms. Jones' new spokesperson, Ms. Susan Carpenter-McMillan, and her new counsel affiliated with the conservative Rutherford Institute.⁷ "I will never deny that when I first heard about this case I said, 'Okay, good. We're

⁵ *Ibid.* at 378.

⁶ *Clinton v. Jones*, 520 U.S. 681 (1997).

⁷ Ms. Jones was described as having "accepted financial support of a Virginia conservative group," which intended to "raise \$100,000 or more on Jones's behalf, although the money will go for expenses and not legal fees." "Jones Acquires New Lawyers and Backing," *The Washington Post* (October 2, 1998) at A1. Jones' new law firm, the Dallas-based Rader, Campbell, Fisher and Pyke, had "represented conservatives in antiabortion cases and other causes." *Ibid.* See also "Dallas Lawyers Agree to Take on Paula Jones' Case -- Their Small Firm Has Ties to Conservative Advocacy Group," *The Los Angeles Times* (Oct. 2, 1997) (Rutherford Institute a "conservative advocacy group.").

gonna get that little slimeball," said Ms. Carpenter-McMillan.⁸ While Ms. Jones' previous attorneys, Messrs. Gilbert Davis and Joseph Cammarata, had largely avoided the media, as the *Jones* civil suit increasingly became a partisan vehicle to try to damage the President, public personal attacks became the order of the day.⁹ As is now well known, this effort led ultimately to the Jones lawyers being permitted to subpoena various women, to discover the nature of their relationship, if any, with the President, allegedly for the purpose of determining whether they had information relevant to the sexual harassment charge. Among these women was Ms. Lewinsky.

In January 1998, Ms. Linda Tripp notified the OIC of certain information she believed she had about Ms. Lewinsky's involvement in the *Jones* case. At that time, the OIC investigation began to intrude formally into the *Jones* case: the OIC met with Ms. Tripp through the week of January 12, and with her cooperation taped Ms. Lewinsky discussing the *Jones* case

⁸ "Cause Celebre: An Antiabortion Activist Makes Herself the Unofficial Mouthpiece for Paula Jones," *The Washington Post* (July 23, 1997) at C1. Ms. Carpenter-McMillan, "a cause-oriented, self-defined 'conservative feminist'", described her role as "flaming the White House" and declared "Unless Clinton wants to be terribly embarrassed, he'd better cough up what Paula needs. Anybody that comes out and testifies against Paula better have the past of a Mother Teresa, because our investigators will investigate their morality." "Paula Jones' Team Not All About Teamwork," *USA Today* (Sept. 29, 1997) at 4A.

⁹ After Ms. Jones' new team had been in action for three months, one journalist commented:

In six years of public controversy over Clinton's personal life, what is striking in some ways is how little the debate changes. As in the beginning, many conservatives nurture the hope that the past will be Clinton's undoing. Jones's adviser, Susan Carpenter-McMillan, acknowledged on NBC's 'Meet the Press' yesterday that her first reaction when she first heard Jones's claims about Clinton was, "Good, we're going to get that little slime ball."

Harris, "Jones Case Tests Political Paradox," *The Washington Post* (Jan. 19, 1998) at A1.

and the President. Ms. Tripp also informed the OIC that she had been surreptitiously taping conversations with Ms. Lewinsky in violation of Maryland law, and in exchange for her cooperation, the OIC promised Ms. Tripp immunity from federal prosecution, and assistance in protecting her from state prosecution.¹⁰ On Friday, January 16, after Ms. Tripp wore a body wire and had taped conversations with Ms. Lewinsky for the OIC, the OIC received jurisdiction from the Attorney General and formalized an immunity agreement with Ms. Tripp in writing.

The President's deposition in the *Jones* case was scheduled to take place the next day, on Saturday, January 17. As we now know, Ms. Tripp met with and briefed the lawyers for Ms. Jones the night before the deposition on her perception of the relationship between Ms. Lewinsky and the President -- doing so based on confidences Ms. Lewinsky had entrusted to her.¹¹ She was permitted to do so even though she had been acting all week at the behest of the OIC and was dependent on the OIC to use its best efforts to protect her from state prosecution. At the deposition the next day, the President was asked numerous questions about his relationship with Ms. Lewinsky by lawyers who already knew the answers.

The *Jones* case, of course, was not about Ms. Lewinsky. She was a peripheral player and, since her relationship with the President was concededly consensual, irrelevant to Ms. Jones' case. Shortly after the President's deposition, Chief Judge Wright ruled that evidence pertaining to Ms. Lewinsky would not be admissible at the *Jones* trial because "it is not essential

¹⁰ Supplemental Materials to the Referral to the United States House of Representatives Pursuant to Title 28, United States Code Section 595(c), H. Doc. 105-316 (hereinafter "Supp.") at 3758-3759, 4371-4373 (House Judiciary Committee) (Sept. 28, 1998).

¹¹ Baker, "Linda Tripp Briefed Jones Team on Tapes: Meeting Occurred Before Clinton Deposition," *The Washington Post* (Feb. 14, 1998) at A1.

to the core issues in this case.”¹² The Court also ruled that, given the allegations at issue in the *Jones* case, the Lewinsky evidence “might be inadmissible as extrinsic evidence” under the Federal Rules of Evidence because it involved merely the “specific instances of conduct” of a witness.¹³

On April 1, 1998, the Court ruled that Ms. Jones had no case and granted summary judgment for the President. Although Judge Wright “viewed the record in the light most favorable to [Ms. Jones] and [gave] her the benefit of all reasonable factual inferences,”¹⁴ the Court ruled that, as a matter of law, she simply had no case against President Clinton, both because “there is no genuine issue as to any material fact” and because President Clinton was “entitled to a judgment as a matter of law.” *Id.* at 11-12. After reviewing all the proffered evidence, the Court ruled that “the record taken as a whole could not lead a rational trier of fact to find for” Ms. Jones. *Id.* at 39.

C. The President’s Grand Jury Testimony About Ms. Lewinsky

On August 17, 1998, the President voluntarily testified to the grand jury and specifically acknowledged that he had had a relationship with Ms. Lewinsky involving “improper intimate contact,” and that he “engaged in conduct that was wrong.” App. at 461.¹⁵ He described how the relationship began and how he had ended it early in 1997 -- long before

¹² Order, at 2, *Jones v. Clinton*, No. LR-C-94-290 (E.D. Ark.) (Jan. 29, 1998).

¹³ *Ibid.*

¹⁴ *Jones v. Clinton*, No. LR-C-94-290 (E.D. Ark.), Memorandum Opinion and Order (April 1, 1998), at 3 n.3.

¹⁵ Appendices to the Referral to the United States House of Representatives Pursuant to Title 28, United States Code Section 595(c), H. Doc. 105-311 (hereinafter “App.”) at 461 (House Judiciary Committee) (Sept. 18, 1998).

any public attention or scrutiny. He stated to the grand jury "it's an embarrassing and personally painful thing, the truth about my relationship with Ms. Lewinsky," App. at 533, and told the grand jurors, "I take full responsibility for it. It wasn't her fault, it was mine." App. at 589-90.

The President also explained how he had tried to navigate the deposition in the *Jones* case months earlier without admitting what he admitted to the grand jury -- that he had been engaged in an improper intimate relationship with Ms. Lewinsky. *Id.* at 530-531. He further testified that the "inappropriate encounters" with Ms. Lewinsky had ended, at his insistence, in early 1997. He declined to describe, because of considerations of personal privacy and institutional dignity, certain specifics about his conduct with Ms. Lewinsky,¹⁶ but he indicated his willingness to answer,¹⁷ and he did answer, the other questions put to him about his relationship with her. No one who watched the videotape of this grand jury testimony had any doubt that the President admitted to having had an improper intimate relationship with Ms. Lewinsky.

D. Proceedings in the House of Representatives

On September 9, 1998, Mr. Starr transmitted a Referral to the House of Representatives that alleged eleven acts by the President related to the Lewinsky matter that, in

¹⁶ "While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters." App. at 461.

¹⁷ "I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky, questions about my understanding of the term 'sexual relations,' as I understood it to be defined at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses." App. at 461.

the opinion of the OIC, "may constitute grounds for an impeachment."¹⁸ The allegations fell into three broad categories: lying under oath, obstruction of justice, and abuse of power.

The House Judiciary Committee held a total of four hearings and called but one witness: Kenneth W. Starr. The Committee allowed the President's lawyers two days in which to present a defense. The White House presented four panels of distinguished expert witnesses who testified that the facts, as alleged, did not constitute an impeachable offense, did not reveal an abuse of power, and would not support a case for perjury or obstruction of justice that any reasonable prosecutor would bring. White House Counsel Charles F.C. Ruff presented argument to the Committee on behalf of the President, which is incorporated into this Trial Memorandum by reference.¹⁹

On December 11 and 12, the Judiciary Committee voted essentially along party lines to approve four articles of impeachment. Republicans defeated the alternative resolution of censure offered by certain Committee Democrats. Almost immediately after censure failed in the Committee, the House Republican leadership declared publicly that no censure proposal would be considered by the full House when it considered the articles of impeachment.²⁰

¹⁸ Referral from Independent Counsel Kenneth W. Starr in Conformity with the Requirements of Title 28, United States Code, Section 595(c), at 1 (House Judiciary Committee) (printed September 11, 1998).

¹⁹ Also incorporated by reference into this Trial Memorandum are the four prior submissions of the President to the House of Representatives: Preliminary Memorandum Concerning Referral of Office of Independent Counsel (September 11, 1998) (73 pages); Initial Response to Referral of Office of Independent Counsel (September 12, 1998) (42 pages); Memorandum Regarding Standards of Impeachment (October 2, 1998) (30 pages); Submission by Counsel for President Clinton to the Committee on the House Judiciary of the United States House of Representatives (December 8, 1998) (184 pages).

²⁰ See Baker & Eilperin, "GOP Blocks Democrats' Bid to Debate Censure in House: Panel Votes Final, Trimmed Article of Impeachment," *The Washington Post* (Dec. 13, 1998) at A1.

On December 19, 1998, voting essentially on party lines, the House of Representatives approved two articles of impeachment: Article I, which alleged perjury before the grand jury, passed by a vote of 228 to 206 and Article III, which alleged obstruction of justice, passed by a vote of 221 to 212. The full House defeated two other Articles: Article II, which alleged that the President committed perjury in his civil deposition, and Article IV, which alleged abuse of power. Consideration of a censure resolution was blocked, even though members of both parties had expressed a desire to vote on such an option.

From beginning to end the House process was both partisan and unfair.

Consider:

- The House released the entire OIC Referral to the public without ever reading it, reviewing it, editing it, or allowing the President's counsel to review it;
- The Chairman of the House of Judiciary Committee said he had "no interest in not working in a bipartisan way";²¹
- The Chairman also pledged a process the American people would conclude was fair;²²
- The Speaker-Designate of the House endorsed a vote of conscience on a motion to censure;²³

²¹ *Associated Press* (March 25, 1998).

²² "This whole proceeding will fall on its face if it's not perceived by the American people to be fair." *Financial Times* (Sept. 12, 1998).

²³ "The next House Speaker, Robert Livingston, said the coming impeachment debate should allow lawmakers to make a choice between ousting President Clinton and imposing a lesser penalty such as censure. The Louisiana Republican said the House can't duck a vote on articles of impeachment if reported next month by its Judiciary Committee. But an 'alternative measure is possible' he said, and the GOP leadership should 'let everybody have a chance to vote on the option of their choice.'" *Wall Street Journal* (Nov. 23, 1998).

- Members of the House were shown secret “evidence” in order to influence their vote -- evidence which the President’s counsel still has not been able to review.

III. THE CONSTITUTIONAL STANDARD AND BURDEN OF PROOF FOR DECISION

A. The Offenses Alleged Do Not Meet the Constitutional Standard of High Crimes and Misdemeanors

1. The Senate Has a Constitutional Duty to Confront the Question Whether Impeachable Offenses Have Been Alleged

It is the solemn duty of the Senate to consider the question whether the articles state an impeachable offense.²⁴ That Constitutional question has not, in the words of one House Manager, “already been resolved by the House.”²⁵ To the contrary, that question now awaits the Senate’s measured consideration and independent judgment. Indeed, throughout our history, resolving this question has been an essential part of the Senate’s constitutional obligation to “try all Impeachments.” U.S. Const. Art. I, § 3, cl. 7. In the words of John Logan, a House Manager in the 1868 proceedings:

It is the rule that all questions of law or of fact are to be decided, in these proceedings, by the final vote upon the guilt or innocence of the accused. It is also the rule, that in determining this general issue senators must consider the sufficiency or insufficiency in law or in fact of every article of accusation.²⁶

²⁴ In the impeachment trial of Andrew Johnson, the President’s counsel answered (to at least one article) that the matters alleged “do not charge or allege the commission of any act whatever by this respondent, in his office of President of the United States, nor the omission by this respondent of any act of official obligation or duty in his office of President of the United States.” 1 *Trial of Andrew Johnson* (1868) (“TAJ”) 53.

²⁵ See Statement of Rep. Bill McCollum: “[A]re these impeachable offenses, which I think has already been resolved by the House. I think constitutionally that’s our job to do.” Fox News Sunday (January 3, 1999).

²⁶ Closing argument of Manager John H. Logan, 2 TAJ 18 (emphasis added). See also Office of Senate Legal Counsel, *Memorandum on Impeachment Issues* at 25-26 (Oct. 7,

We respectfully suggest that the articles exhibited here do not state wrongdoing that constitutes impeachable offenses under our Constitution.

2. **The Constitution Requires a High Standard of Proof of "High Crimes and Misdemeanors" for Removal**

a. **The Constitutional Text and Structure Set an Intentionally High Standard for Removal**

The Constitution provides that the President shall be removed from office only upon "Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." U.S. Constitution, Art. II, section 4. The charges fail to meet the high standard that the Framers established.²⁷

The syntax of the Constitutional standard "Treason, Bribery or other high Crimes and Misdemeanors" (emphasis added) strongly suggests, by the interpretive principle *noscitur a sociis*,²⁸ that, to be impeachable offenses, high crimes and misdemeanors must be of the seriousness of "Treason" and "Bribery."

1988) ("Because the Senate acts as both judge and jury in an impeachment trial, the Senate's conviction on a particular article of impeachment reflects the Senate's judgment not only that the accused engaged in the misconduct underlying the article but also that the article stated an impeachable offense").

²⁷ For a more complete discussion of the Standards for Impeachment, please see *Submission by Counsel for President Clinton to the House Judiciary of the United States House of Representatives* at 24-43 (December 8, 1998); *Memorandum Regarding Standards of Impeachment* (October 2, 1998); and *Impeachment of William Jefferson, President of the United States*, Report of the Committee on the Judiciary to Accompany H. Res. 611, H. Rpt. 105-830, 105th Cong., 2d Sess. at 332-39 (citing Minority Report). References to pages 2-203 of the Committee Report will be cited hereinafter as "Committee Report." References to pages 329-406 of the Committee Report will be cited hereinafter as "Minority Report."

²⁸ "It is known from its associates' . . . the meaning of a word is or may be known from the accompanying words." *Black's Law Dictionary* 1209 (4th ed. 1968).

Our Constitutional structure reaffirms that the standard must be a very high one. Ours is a Constitution of separated powers. In that Constitution, the President does not serve at the will of Congress, but as the directly elected,²⁹ solitary head of the Executive Branch. The Constitution reflects a judgment that a strong Executive, executing the law independently of legislative will, is a necessary protection for a free people.

These elementary facts of constitutional structure underscore the need for a very high standard for impeachment. The House Managers, in their Brief, suggest that the failure to remove the President would raise the standard for impeachment higher than the Framers intended. They say that if the Senate does not remove the President, "The bar will be so high that only a convicted felon or a traitor will need to be concerned." But that standard is just a modified version of the plain language of Article II, Section 4 of the Constitution, which says a President can only be impeached and removed for "Treason, Bribery, or other high Crimes and Misdemeanors." The Framers wanted a high bar. It was not the intention of the Framers that the President should be subject to the will of the dominant legislative party. As Alexander Hamilton said in a warning against the politicization of impeachment: "There will always be the greatest danger that the decision will be regulated more by comparative strength of parties than by the real demonstrations of innocence or guilt." Federalist 65. Our system of government does not permit Congress to unseat the President merely because it disagrees with his behavior or his policies. The Framers' decisive rejection of parliamentary government is one reason they caused the phrase "Treason, Bribery or other high Crimes and Misdemeanors" to appear in the

²⁹ Of course, that election takes place through the mediating activity of the Electoral College. See U.S. Const. Art. II, § 1, cl. 2-3 and Amend. XII.

Constitution itself. They chose to specify those categories of offenses subject to the impeachment power, rather than leave that judgment to the unfettered whim of the legislature.

Any just and proper impeachment process must be reasonably viewed by the public as arising from one of those rare cases when the Legislature is compelled to stand in for all the people and remove a President whose continuation in office threatens grave harm to the Republic. Indeed, it is not exaggeration to say -- as a group of more than 400 leading historians and constitutional scholars publicly stated -- that removal on these articles would "mangle the system of checks and balances that is our chief safeguard against abuses of public power."³⁰ Removal of the President on these grounds would defy the constitutional presumption that the removal power rests with the people in elections, and it would do incalculable damage to the institution of the Presidency. If "successful," removal here "will leave the Presidency permanently disfigured and diminished, at the mercy as never before of the caprices of any Congress."³¹

The Framers made the President the sole nationally elected public official (together with the Vice-President), responsible to all the people. Therefore, when articles of impeachment have been exhibited, the Senate confronts this inescapable question: is the alleged misconduct so profoundly serious, so malevolent to our Constitutional system, that it justifies undoing the people's decision? Is the wrong alleged of a sort that not only demands removal of the President before the ordinary electoral cycle can do its work, but also justifies the national

³⁰ Statement of Historians in Defense of the Constitution (Oct. 28, 1998) ("*Statement of Historians*"); see also Schmitt, "Scholars and Historians Assail Clinton Impeachment Inquiry," *The New York Times* (Oct. 19, 1998) at A18.

³¹ *Statement of Historians*.

trauma that accompanies the impeachment trial process itself? The wrongdoing alleged here does not remotely meet that standard.

b. **The Framers Believed that Impeachment and Removal Were
Appropriate Only for Offenses Against the System of
Government**

"[H]igh Crimes and Misdemeanors" refers to nothing short of Presidential actions that are "great and dangerous offenses" or "attempts to subvert the Constitution."³² Impeachment was never intended to be a remedy for private wrongs. It was intended to be a method of removing a President whose continued presence in the Office would cause grave danger to the Nation and our Constitutional system of government.³³ Thus, "in all but the most extreme instances, impeachment should be limited to abuse of public office, not private misconduct unrelated to public office."³⁴

Impeachment was designed to be a means of redressing *wrongful public conduct*. As scholar and Justice James Wilson wrote, "our President . . . is amenable to [the laws] in his private character as a citizen, and in his public character by impeachment."³⁵ As such,

³² George Mason, 2 Farrand, *The Records of the Federal Convention of 1787* 550 (Rev. ed. 1966).

³³ As the 1975 Watergate staff report concluded "Impeachment is the first step in a remedial process -- removal from office and possible disqualification from holding future office. The purpose of impeachment is not personal punishment; its function is primarily to maintain constitutional government. . . . In an impeachment proceeding a President is called to account for abusing powers that only a President possesses." *Constitutional Grounds for Presidential Impeachment, Report by the Staff of the Impeachment Inquiry*, House Comm. on Judiciary, 93d Cong., 2d Sess. at 24 (1974) ("*Nixon Impeachment Inquiry*").

³⁴ Minority Report at 337.

³⁵ 2 Elliot, *The Debate in the Several State Conventions on the Adoption of the Federal Constitution* 480 (reprint of 2d ed.).

impeachment is limited to certain forms of wrongdoing. Alexander Hamilton described the subject of the Senate's impeachment jurisdiction as

those offenses which proceed from the misconduct of public men, or in other words from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done to the society itself.³⁶

The Framers "intended that a president be removable from office for the commission of great offenses against the Constitution."³⁷ Impeachment therefore addresses public wrongdoing, whether denominated a "political crime[] against the state,"³⁸ or "an act of malfeasance or abuse of office,"³⁹ or a "great offense[] against the federal government."⁴⁰ Ordinary civil and criminal wrongs can be addressed through ordinary judicial processes. And ordinary political wrongs can be addressed at the ballot box and by public opinion. Impeachment is reserved for the most serious public misconduct, those aggravated abuses of executive power that, given the President's four-year term, might otherwise go unchecked.

³⁶ *The Federalist No. 65* at 331 (Gary Wills ed. 1982). As one of the most respected of the early commentators explained, the impeachment "power partakes of a political character, as it respects injuries to the society in its political character." Story, *Commentaries on the Constitution*, Sec. 744. (reprint of 1st ed. 1833).

³⁷ John Labovitz, *Presidential Impeachment* 94 (1978).

³⁸ Raoul Berger, *Impeachment* 61 (1973).

³⁹ Rotunda, *An Essay on the Constitutional Parameters of Federal Impeachment*, 76 Ky. L.J. 707, 724 (1987/1988).

⁴⁰ Gerhardt, *The Constitutional Limits to Impeachment and Its Alternatives*, 68 Tex. L. Rev. 1, 85 (1989).

3. Past Precedents Confirm that Allegations of Dishonesty Do Not Alone State Impeachable Offenses

Because impeachment of a President nullifies the popular will of the people, as evidenced by an election, it must be used with great circumspection. As applicable precedents establish, it should not be used to punish private misconduct.

a. The Fraudulent Tax Return Allegation Against President Nixon

Five articles of impeachment were proposed against then-President Nixon by the Judiciary Committee of the House of Representatives in 1974. Three were approved and two were not. The approved articles alleged official wrongdoing. Article I charged President Nixon with “using the powers of his high office [to] engage[] . . . in a course of conduct or plan designed to delay, impede and obstruct” the Watergate investigation.⁴¹ Article II described the President as engaging in “repeated and continuing abuse of the powers of the Presidency in disregard of the fundamental principle of the rule of law in our system of government” thereby “us[ing] his power as President to violate the Constitution and the law of the land.”⁴² Article III charged the President with refusing to comply with Judiciary Committee subpoenas in frustration of a power necessary to “preserve the integrity of the impeachment process itself and the ability of Congress to act as the ultimate safeguard against improper Presidential conduct.”⁴³

⁴¹ *Impeachment of Richard M. Nixon, President of the United States*, Report of the Comm. on the Judiciary, 93rd Cong., 2d Sess., H. Rep. 93-1305 (Aug. 20, 1974) (hereinafter “*Nixon Report*”) at 133.

⁴² *Nixon Report* at 180.

⁴³ *Id.* at 212-13.

One article not approved by the House Judiciary Committee charged that President Nixon both "knowingly and fraudulently failed to report certain income and claimed deductions [for 1969-72] on his Federal income tax returns which were not authorized by law."⁴⁴ The President had signed his returns for those years under penalty of perjury,⁴⁵ and there was reason to believe that the underlying facts would have supported a criminal prosecution against President Nixon himself.⁴⁶

Specifying the applicable standard for impeachment, the majority staff concluded that

[b]ecause impeachment of a President is a grave step for the nation, it is to be predicated only upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of the president office.⁴⁷

And the minority views of many Republican members were in substantial agreement:

the Framers . . . were concerned with preserving the government from being overthrown by the treachery or corruption of one man. . . . [I]t is our judgment, based upon this constitutional history, that the Framers of the United States Constitution intended that the President should be

⁴⁴ *Id.* at 220. The President was alleged to have failed to report certain income, to have taken improper tax deductions, and to have manufactured (either personally or through his agents) false documents to support the deductions taken.

⁴⁵ Given the underlying facts, that act might have provided the basis for multiple criminal charges; conviction on, for example, the tax evasion charge, could have subjected President Nixon to a 5-year prison term.

⁴⁶ See *Nixon Report* at 344 ("the Committee was told by a criminal fraud tax expert that on the evidence presented to the Committee, if the President were an ordinary taxpayer, the government would seek to send him to jail") (Statement of Additional Views of Mr. Mezvinsky, *et al.*).

⁴⁷ *Nixon Impeachment Inquiry* at 26 (emphasis added).

removable by the legislative branch only for serious misconduct dangerous to the system of government established by the Constitution.⁴⁸

The legal principle that impeachable offenses required misconduct dangerous to our system of government provided one basis for the Committee's rejection of the fraudulent-tax-return charge. As Congressman Hogan (R-Md.) put the matter, the Constitution's phrase "high crime signified a crime against the system of government, not merely a serious crime."⁴⁹ As noted, the tax-fraud charge, involving an act which did not demonstrate public misconduct, was rejected by an overwhelming (and bipartisan) 26-12 margin.⁵⁰

b. The Financial Misdealing Allegation Against Alexander Hamilton

In 1792, Congress investigated Secretary of Treasury Alexander Hamilton for alleged financial misdealings with a convicted swindler. Hamilton had made payments to the swindler and had urged his wife (Hamilton's paramour) to burn incriminating correspondence. Members of Congress investigated the matter and it came to the attention of President Washington and future Presidents Adams, Jefferson, Madison and Monroe.

This private matter was not deemed worthy of removing Mr. Hamilton as Secretary of the Treasury.⁵¹ Even when it eventually became public, it was no barrier to

⁴⁸ *Nixon Report* at 364-365 (Minority Views of Messrs. Hutchinson, Smith, Sandman, Wiggins, Dennis, Mayne, Lott, Moorhead, Maraziti and Latta).

⁴⁹ *Id.* (quoting with approval conclusion of *Nixon Impeachment Inquiry*).

⁵⁰ *Nixon Report* at 220.

⁵¹ See generally Rosenfeld, "Founding Fathers Didn't Flinch," *The Los Angeles Times* (September 18, 1998).

Hamilton's appointment to high position in the United States Army. Although not insignificant, Hamilton's behavior was essentially private. It was certainly not regarded as impeachable.

4. The Views of Prominent Historians and Legal Scholars Confirm that Impeachable Offenses Are Not Present

a. No Impeachable Offense Has Been Stated Here

There is strong agreement among constitutional scholars and historians that the articles do not charge impeachable offenses. As Professor Michael Gerhardt summarized in his recent testimony before a subcommittee of the House of Representatives, there is "widespread recognition [of] a paradigmatic case for impeachment."⁵² In such a case, "there must be a nexus between the misconduct of an impeachable official and the latter's official duties."⁵³

There is no such nexus here. Indeed the allegations are so far removed from official wrongdoing that their assertion here threatens to weaken significantly the Presidency itself. As the more than 400 prominent historians and constitutional scholars warned in their public statement:

[t]he theory of impeachment underlying these efforts is unprecedented in our history . . . [and is] are extremely ominous for the future of our political institutions. If carried forward, [the current processes] will leave the Presidency permanently disfigured and diminished, at the mercy as never before of the caprices of any Congress.⁵⁴

Similarly, in a letter to the House of Representatives, an extraordinary group of 430 legal scholars argued together that these offenses, even if proven true, did not rise to the level of an

⁵² Statement of Professor Michael J. Gerhardt Before the House Subcommittee on the Constitution of the House Judiciary Committee Regarding the Background and History of Impeachment (November 9, 1998) at 13 ("*Subcommittee Hearings*").

⁵³ *Ibid.* (emphasis added).

⁵⁴ *Statement of Historians.*

impeachable offense.⁵⁵ The gist of these scholarly objections is that the alleged wrongdoing is insufficiently connected to the exercise of public office. Because the articles charge wrongdoing of an essentially private nature, any harm such behavior poses is too removed from our system of government to justify unseating the President. Numerous scholars, opining long before the current controversy, have emphasized the necessary connection of impeachable wrongs to threats against the state itself. They have found that impeachment should be reserved for:

- “offenses against the government”;⁵⁶
- “political crimes against the state”;⁵⁷
- “serious assaults on the integrity of the processes of government”;⁵⁸
- “wrongdoing convincingly established [and] so egregious that [the President’s] continuation in office is intolerable”;⁵⁹
- “malfeasance or abuse of office,”⁶⁰ bearing a “functional relationship” to public office;⁶¹
- “great offense[s] against the federal government”;⁶²

⁵⁵ See Letter of 430 Law Professors to Messrs. Gingrich, Gephardt, Hyde and Conyers (released Nov. 6, 1998).

⁵⁶ Labovitz, *Presidential Impeachment* at 26.

⁵⁷ Berger, *Impeachment* at 61.

⁵⁸ Charles L. Black, Jr., *Impeachment: A Handbook* 38-39 (1974).

⁵⁹ Labovitz, *Presidential Impeachment* at 110.

⁶⁰ Rotunda, 76 Ky. L.J. at 726.

⁶¹ *Ibid.*

⁶² Gerhardt, 68 Tex. L. Rev. at 85.

- “acts which, like treason and bribery, undermine the integrity of government.”⁶³

The articles contain nothing approximating that level of wrongdoing. Indeed the House Managers themselves acknowledge that “the President’s [alleged] perjury and obstruction do not directly involve his official conduct.”⁶⁴

b. **To Make Impeachable Offenses of These Allegations Would Forever Lower the Bar in a Way Inimical to the Presidency and to Our Government of Separated Powers**

These articles allege (1) sexual misbehavior, (2) statements about sexual misbehavior and (3) attempts to conceal the fact of sexual misbehavior. These kinds of wrongs are simply not subjects fit for impeachment. To remove a President on this basis would lower the impeachment bar to an unprecedented level and create a devastating precedent. As Professor Arthur Schlesinger, Jr., addressing this problem, has testified:

Lowering the bar for impeachment creates a novel, . . . revolutionary theory of impeachment, [and] . . . would send us on an adventure with ominous implications for the separation of powers that the Constitution established as the basis of our political order. It would permanently weaken the Presidency.⁶⁵

The lowering of the bar that Professor Schlesinger described must stop here. Professor Jack Rakove made a similar point when he stated that “Impeachment [is] a remedy to be deployed only in . . . unequivocal cases where . . . the insult to the constitutional system is grave.”⁶⁶

⁶³ Committee on Federal Legislation of the Bar Ass’n of the City of New York, *The Law of Presidential Impeachment* 18 (1974).

⁶⁴ House Br. at 109.

⁶⁵ *Subcommittee Hearings* (Written Statement of Arthur Schlesinger, Tr. at 2).

⁶⁶ *Subcommittee Hearings* (Written Statement of Professor Jack Rakove at 4).

Indeed, he said, there “would have to be a high degree of consensus on both sides of the aisle in Congress and in both Houses to proceed.”⁶⁷

Bipartisan consensus was, of course, utterly lacking in the House of Representatives. No civil officer -- no President, no judge, no cabinet member -- has ever been impeached by so narrow a margin as supported the articles exhibited here.⁶⁸ The closeness and partisan division of the vote reflect the constitutionally dubious nature of the charges.

When articles are based on sexual wrongdoing, and when they have passed only by the narrowest, partisan margin, the future of our constitutional politics is in the balance. The very stability of our Constitutional government may depend upon the Senate’s response to these articles. Nothing about this case justifies removal of a twice-elected President, because no “high Crimes and Misdemeanors” are alleged.

5. Comparisons to Impeachment of Judges Are Wrong

The House Managers suggest that perjury *per se* is an impeachable offense because (1) several federal judges have been impeached and removed for perjury, and (2) those precedents control this case. *See* House Br. at 95-105. That notion is erroneous. It is blind both

⁶⁷ *Subcommittee Hearings* (Oral Testimony of Professor Rakove).

⁶⁸ The present articles were approved by margins of 228-206 (Article I) and 221-212 (Article II). All prior resolutions were approved by substantially wider margins in the House of Representatives. *See* Impeachments of the following civil officers: Judge John Pickering (1803) (45-8); Justice Samuel Chase (1804) (73-32); Judge James Peck (1830) (143-49); Judge West Humphreys (1862) (no vote available, but resolution of impeachment voted “without division,” *see* 3 Hinds Precedents of the House of Representatives § 2386); President Andrew Johnson (1868) (128-47); Judge James Belknap (1876) (unanimous); Judge Charles Swayne (1903) (unanimous); Judge Robert Archbald (1912) (223-1); Judge George English (1925) (306-62); Judge Harold Louderback (1932) (183-143); Judge Halsted Ritter (1933) (181-146); Judge Harry Claiborne (1986) (406-0); Judge Walter L. Nixon, Jr. (1988) (417-0); Judge Alcee L. Hastings (1988) (413-3). The impeachment resolution against Senator William Blount in 1797 was by voice vote and so no specific count was recorded.

to the qualitative differences among different allegations of perjury and the very basic differences between federal judges and the President.

First, the impeachment and removal of a Federal judge, while a very solemn task, implicates very different considerations than the impeachment of a President. Federal judges are appointed without public approval and enjoy life tenure without public accountability. Consequently, they hold their offices under our Constitution only "during good behavior." Under our system, impeachment is the only way to remove a Federal judge from office -- even a Federal judge sitting in jail.⁶⁹ By contrast, a President is elected by the Nation to a term, limited to a specified number of years, and he faces accountability in the form of elections.

Second, whether an allegedly perjurious statement rises to the level of an impeachable offense depends necessarily on the particulars of that statement, and the relation of those statements to the fulfillment of official responsibilities. In the impeachment of Judge

⁶⁹ Former House Judiciary Committee Chairman Peter Rodino, during a recent judicial impeachment proceeding, cogently explained the unique position that Federal judges hold in our Constitutional system:

The judges of our Federal courts occupy a unique position of trust and responsibility in our government: They are the only members of any branch that hold their office for life; they are purposely insulated from the immediate pressures and shifting currents of the body politic. But with the special prerogative of judicial independence comes the most exacting standard of public and private conduct. . . . The high standard of behavior for judges is inscribed in article III of the Constitution, which provides that judges "shall hold offices during good behavior. . . ."

132 Cong. Rec. H4712 (July 22, 1986) (impeachment of Judge Harry E. Claiborne) (emphasis added).

Harry Claiborne, the accused had been convicted of filing false income tax returns.⁷⁰ As a judge, Claiborne was charged with the responsibility of hearing tax-evasion cases. Once convicted, he simply could not perform his official functions because his personal probity had been impaired such that he could not longer be an arbiter of others' oaths. His wrongdoing bore a direct connection to the performance of his judicial tasks. The inquiry into President Nixon disclosed similar wrongdoing, but the House Judiciary Committee refused to approve an article of impeachment against the President on that basis. The case of Judge Walter Nixon is similar. He was convicted of making perjurious statements concerning his intervention in a judicial proceeding, which is to say, employing the power and prestige of his office to obtain advantage for a party.⁷¹ Although the proceeding at issue was not in his court, his use of the judicial office for the private gain of a party to a judicial proceeding directly implicated his official functions. Finally, Judge Alcee Hastings was impeached and removed for making perjurious statements at his trial for conspiring to fix cases in his own court.⁷² As with Judges Claiborne and Nixon, Judge Hastings' perjurious statements were immediately and incurably detrimental to the performance of his official duties. The allegations against the President, which (as the Managers acknowledge) "do not directly involve his official conduct," House Br. at 109, simply do not

⁷⁰ Proceedings of the United States Senate in the Impeachment Trial of Harry E. Claiborne, 99th Cong., 2d Sess., S. Doc. 99-48 at 291-98 (1986) ("*Claiborne Proceedings*").

⁷¹ Proceedings of the United States Senate in the Impeachment Trial of Walter L. Nixon, Jr., 101st Cong., 1st Sess., S. Doc. 101-22 at 430-440 (1989) ("*Judge Nixon Proceedings*").

⁷² See Proceedings of the United States Senate in the Impeachment Trial of Alcee L. Hastings, 101st Cong., 1st Sess., S. Doc. 101-18 (1989).

involve wrongdoing of gravity sufficient to foreclose effective performance of the Presidential office.

Impeachment scholar John Labovitz, writing of the judicial impeachment cases predating Watergate, observed that:

For both legal and practical reasons, th[e] [judicial impeachment] cases did not necessarily affect the grounds for impeachment of a president. The practical reason was that it seemed inappropriate to determine the fate of an elected chief executive on the basis of law developed in proceedings directed at petty misconduct by obscure judges. The legal reason was that the Constitution provides that judges serve during good behavior. . . . [T]he [good behavior] clause made a difference in judicial impeachments, confounding the application of these cases to presidential impeachment.⁷³

Thus, the judicial precedents relied upon by the House Managers have only "limited force when applied to the impeachment of a President."⁷⁴

The most telling rejoinder to the House's argument comes from President Ford. His definition of impeachable offenses, offered as a congressman in 1970 in connection with an effort to impeach Associate Justice William O. Douglas -- that it is, in essence, "whatever the majority of the House of Representatives considers it to be"-- has been cited. Almost never noted is the more important aspect of then-Congressman Ford's statement -- that, in contrast to the life-tenure of judges, because presidents can be removed by the electorate, "to remove them in midterm . . . would indeed require crimes of the magnitude of treason and bribery."⁷⁵

⁷³ Labovitz, *Presidential Impeachment* at 92-93 (emphasis added).

⁷⁴ Office of Senate Legal Counsel, *Memorandum on Impeachment Issues* at 26 (Oct. 7, 1988) (summarizing view of some commentators).

⁷⁵ 116 Cong. Rec. 11912, 11913 (1970).

B. The Standard of Proof

Beyond the question of what constitutes an impeachable offense, each Senator must confront the question of what standard the evidence must meet to justify a vote of "guilty." The Senate has, of course, addressed this issue before -- most recently in the trials of Judge Claiborne and Judge Hastings. We recognize that the Senate chose in the Claiborne proceedings, and reaffirmed in the Hastings trial, not to impose on itself any single standard of proof but, rather, to leave that judgment to the conscience of each senator. Many Senators here today were present for the debate on this issue and chose a standard by which to test the evidence. For many Senators, however, the issue is a new one. And none previously has had to face the issue in the special context of a Presidential impeachment.

We argued before the House Judiciary Committee that it must treat a vote to impeach as, in effect, a vote to remove the President from office and that a decision of such moment ought not to be based on anything less than "clear and convincing" evidence. That standard is higher than the "preponderance of the evidence" test applicable to the ordinary civil case but lower than the beyond a reasonable doubt test applicable to a criminal case. Nonetheless, we felt that the clear and convincing standard was consistent with the grave responsibility of triggering a process that might result in the removal of a president. In fact, it had been the standard agreed upon by both Watergate Committee majority and minority counsel (as well as counsel for President Nixon) twenty-four years ago.

Certainly no lesser standard should be applied in the Senate. Indeed, we submit that the gravity of the decision the Senate must reach should lead each Senator to go further and ask whether the House has established guilt beyond a reasonable doubt.

Both lawyers and laymen too often treat the standard of proof as meaningless legal jargon with no application to the real world of difficult decisions. But it is much more than that. In our system of justice, it is the guidepost that shows the way through the labyrinth of conflicting evidence. It tells the factfinder to look within and ask: "Would I make the most important decisions of my life based on the degree of certainty I have about these facts?" In the unique legal-political setting of an impeachment trial, it protects against partisan overreaching, and it assures the public that this grave decision has been made with care. In sum, it is a disciplining force to carry into the deliberations.

This point is given added weight by the language of the Constitution. Article I, section 3, clause 6 of the United States Constitution gives to the Senate "the Power to *try* all Impeachments. . . . and no Person shall be *convicted* without the Concurrence of two thirds of the Members present." (Emphasis added.) Use of the words "try" and "convicted" strongly suggests that an impeachment trial is akin to a criminal proceeding and that the beyond-a-reasonable-doubt standard of criminal proceedings should be used. This position was enunciated in the Minority Views contained in the Report of the House Judiciary Committee on the impeachment proceedings against President Nixon (H.Rep. 93-1305 at 377-381) and has been espoused as the correct standard by such Senators as Robert Taft, Jr., Sam Ervin, Strom Thurmond and John Stennis.⁷⁶

Even if the clear and convincing standard nonetheless is appropriate for judicial impeachments, it does not follow that it should be applied where the Presidency itself is at stake. With judges, the Senate must balance its concern for the independence of the judiciary against

⁷⁶ *Claiborne Proceedings* at 106-107.

the recognition that, because judges hold life-time tenure, impeachment is the only available means to protect the public against those who are corrupt. On the other hand, when a President is on trial, the balance to be struck is quite different. Here the Senate is asked, in effect, to overturn the results of an election held two years ago in which the American people selected the head of one of the three coordinate branches of government. It is asked to take this action in circumstances where there is no suggestion of corruption or misuse of office -- or any other conduct that places our system of government at risk in the two remaining years of the President's term, when once again the people will judge who they wish to lead them. In this setting, the evidence should be tested by the most stringent standard we know -- proof beyond a reasonable doubt. Only then can the American people be confident that this most serious of constitutional decisions has been given the careful consideration it deserves.

IV. THE PRESIDENT SHOULD BE ACQUITTED ON ARTICLE I

The evidence does not support the allegations of Article I.

A. Applicable Law

Article I alleges perjury, along with false and misleading statements, before a federal grand jury. Perjury is a statutory crime that is set forth in the United States Code at 18 U.S.C. § 1623.⁷⁷ Before an accused may be found guilty of perjury before a grand jury, a prosecutor must prove all elements of the offense.

⁷⁷ Section 1623 provides in relevant part:

(a) Whoever under oath . . . in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information . . . knowing the same to contain any false material declaration, shall be fined under this title or imprisoned not more than five years, or both.

18 U.S.C. § 1623(a) (1994).

In the criminal law context, § 1623 requires proof beyond a reasonable doubt of the following elements: that an accused (1) while under oath (2) knowingly (3) made a false statement as to (4) material facts. The "materiality" element is fundamental: it means that testimony given to a grand jury may be found perjurious only if it had a tendency to influence, impede, or hamper the grand jury's investigation. *See, e.g., United States v. Reilly*, 33 F.3d 1396, 1419 (3d Cir. 1994); *United States v. Barrett*, 111 F.3d 947, 953 (D.C. Cir. 1997). If an answer provided to a grand jury has no impact on the grand jury's investigation, or if it relates to a subject that the grand jury is not considering, it is incapable as a matter of law of being perjurious. Thus, alleged false testimony concerning details that a grand jury is not investigating cannot as a matter of law constitute perjury, since such testimony by definition is immaterial. *See, e.g., United States v. Lasater*, 535 F.2d 1041, 1048 (8th Cir. 1976) (where defendant admitted signing letter and testified to its purpose, his denial of actually writing letter was not material to grand jury investigation and was incapable of supporting perjury charge); *United States v. Pyle*, 156 F.2d 852, 856 (D.C. Cir. 1946) (details such as whether defendant "paid the rent on her Washington apartment, as she testified that she did" were "not pertinent to the issue being tried;" therefore, "the false statement attributed to [defendant] was in no way material in the case in which she made it and did not constitute perjury within the meaning of the statute.") In other words, mere falsity -- even knowing falsity -- is not perjury if the statement at issue is not "material" to the matter under consideration.

An additional "element" of perjury prosecutions, at least as a matter of prosecutorial practice, is that a perjury conviction cannot rest solely on the testimony of one witness. In *United States v. Weiler*, 323 U.S. 606, 608-09 (1945), the Supreme Court observed

that the “special rule which bars conviction for perjury solely upon the evidence of a single witness is deeply rooted in past centuries.” While § 1623 does not literally incorporate the so-called “two-witness” rule, the case law makes clear that perjury prosecutions under this statute require a high degree of proof, and that prosecutors should not, as a matter of reason and practicality, try to bring perjury prosecutions based solely on the testimony of a single witness. As the Supreme Court has cautioned, perjury cases should not rest merely upon “an oath against an oath.” *Id.* at 609.

Indeed, that is exactly the point that experienced former federal prosecutors made to the House Judiciary Committee. A panel of former federal prosecutors, some Republican, testified that they would not charge perjury based upon the facts in this case. For example, Mr. Thomas Sullivan, a former United States Attorney for the Northern District of Illinois, told the Committee that “the evidence set out in the Starr report would not be prosecuted as a criminal case by a responsible federal prosecutor.” *See* Transcript of “Prosecutorial Standards for Obstruction of Justice and Perjury” Hearing (Dec. 9, 1998); *see generally* Minority Report at 340-47. As Mr. Sullivan emphasized, “because perjury and obstruction charges often arise from private dealings with few observers, the courts have required either two witnesses who testified directly to the facts establishing the crime, or, if only one witness testifies to the facts constituting the alleged perjury, that there be substantial corroborating proof to establish guilt.” *See* Transcript of “Prosecutorial Standards for Obstruction of Justice and Perjury” Hearing (Dec. 9, 1998). The other prosecutors on the panel agreed. Mr. Richard J. Davis, who served as an Assistant United States Attorney for the Southern District of New York and as a Task Force Leader for the Watergate Special Prosecution Force, testified that “it is virtually unheard of to

bring a perjury prosecution based solely on the conflicting testimony of two people." *Id.* A review of the perjury alleged here thus requires both careful scrutiny of the materiality of any alleged falsehood and vigilance against conviction merely on an "oath against an oath." *Weiler*, 323 U.S. at 609.

B. Structure of the Allegations

Article I charges that the President committed perjury when he testified before the grand jury on August 17, 1998. It alleges he "willfully provided perjurious, false and misleading testimony to the grand jury concerning "one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action." As noted above, the article does not provide guidance on the particular statements alleged to be perjurious, false and misleading. But by reference to the different views in the House Committee Report, the presentation of House Majority Counsel David Schippers, the OIC Referral, and the Trial Memorandum of the House Managers, we have attempted to identify certain statements from which members of the House might have chosen.

Subpart (1) alleges that the President committed perjury before the grand jury about the details of his relationship with Ms. Lewinsky -- including apparently such insignificant matters as mis-remembering the precise month on which certain inappropriate physical contact started, understating as "occasional" his infrequent inappropriate physical and telephone contacts

with Ms. Lewinsky over a period of many months, characterizing their relationship as starting as a friendship, and touching Ms. Lewinsky in certain ways and for certain purposes during their intimate encounters.

Subpart (2) of Article I alleges that the President made perjurious, false and misleading statements to the grand jury when he testified about certain responses he had given in the *Jones* civil deposition. The House Managers erroneously suggest that in the grand jury President Clinton was asked about and reaffirmed his entire deposition testimony, including his deposition testimony about whether he had been alone with Ms. Lewinsky. *See* House Br. at 2, 60. That is demonstrably false. Those statements that the President did in fact make in the grand jury, by way of explaining his deposition testimony, were truthful. Moreover, to the extent this subpart repeats allegations of Article II of the original proposed articles of impeachment, the full House of Representatives has explicitly considered and specifically rejected those charges, and their consideration would violate the impeachment procedures mandated by the Constitution.

Subparts (3) and (4) allege that the President lied in the grand jury when he testified about certain activities in late 1997 and early 1998. They are based on statements about conduct that the House Managers claim constitutes obstruction of justice under Article II and in many respects track Article II. *Compare* Article I (3) (perjury in the grand jury concerning alleged “prior false and misleading statements he allowed his attorney to make to a Federal judge”) with Article II (5) (obstructing justice by “allow[ing] his attorney to make false and misleading statements to a Federal judge) and *compare* Article I (4) (perjury in the grand jury concerning alleged “corrupt efforts to influence testimony of witnesses and to impede the discovery of evidence”) with Article II (3), (6), (7) (obstructing justice when he (3) “engaged in, encouraged,

or supported a scheme to conceal evidence," *i.e.*, gifts; (6) "corruptly influence[d] the testimony" of Betty Currie; (7) "made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses"). These perjury allegations are without merit both because the obstruction charges upon which they are based are wrong and because the statements that President Clinton made in the grand jury about these charges are true. Because of the close parallel, and for sake of brevity in this submission, we have dealt comprehensively with these overlapping allegations in the next section addressing Article II (obstruction of justice), and address them only briefly in this section.

C. Response to the Particular Allegations in Article I

The President testified truthfully before the grand jury. There must be no mistake about what the President said. He admitted to the grand jury that he had engaged in an inappropriate intimate relationship with Ms. Lewinsky over a period of many months. He admitted to the grand jury that he had been alone with Ms. Lewinsky. He admitted to the grand jury that he had misled his family, his friends and staff, and the entire Nation about the nature of that relationship. No one who heard the President's August 17 speech or watched the President's videotaped grand jury testimony had any doubt that he had admitted to an ongoing physical relationship with Ms. Lewinsky.

The article makes general allegations about this testimony but does not specify alleged false statements, so direct rebuttal is impossible. In light of this uncertainty, we set forth below responses to the allegations that have been made by the House Managers, the House Committee, and the OIC, even though they were not adopted in the article, in an effort to try to respond comprehensively to the charges.

1. **The President denies that he made materially false or misleading statements to the grand jury about "the nature and details of his relationship" with Monica Lewinsky**

a) Early in his grand jury testimony, the President specifically acknowledged that he had had a relationship with Ms. Lewinsky that involved "improper intimate contact." App. at 461. He described how the relationship began and how it ended early in 1997 -- long before any public attention or scrutiny.

In response to the first question about Ms. Lewinsky, the President read the following statement:

When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th, 1998 deposition. But they did involve inappropriate intimate contact.

These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.

I regret that what began as a friendship came to include this conduct, and I take full responsibility for my actions.

While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters.

I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky; questions about my understanding of the term "sexual relations," as I understood it to be defined at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses.

App. at 460-62. The President occasionally referred back to this statement -- but only when asked very specific questions about his physical relationship with Ms. Lewinsky -- and he

otherwise responded fully to four hours of interrogation about his relationship with Ms. Lewinsky, his answers in the civil deposition, and his conduct surrounding the *Jones* deposition.

The articles are silent on precisely what statements the President made about his relationship with Ms. Lewinsky that were allegedly perjurious. But between the House Brief and the Committee Report, both drafted by the Managers, it appears there are three aspects of this prepared statement that are alleged to be false and misleading because Ms. Lewinsky's recollection differs -- albeit with respect to certain very specific, utterly immaterial matters: first, when the President admitted that inappropriate conduct occurred "on certain occasions in early 1996 and once in 1997," he allegedly committed perjury because in the Managers' view, the first instance of inappropriate conduct apparently occurred a few months prior to "early 1996," *see* House Br. at 53; second, when the President admitted to inappropriate conduct "on certain occasions in early 1996 and once in 1997," he allegedly committed perjury because, according to the House Committee, there were eleven total sexual encounters and the term "on certain occasions" implied something other than eleven, *see* Committee Report at 34; and third, when the President admitted that he "had occasional telephone conversations with Ms. Lewinsky that included sexual banter," he allegedly committed perjury because, according to the House Committee (although not Ms. Lewinsky), seventeen conversations may have included sexually explicit conversation, *ibid*. Apart from the fact that the record itself refutes some of the allegations (for example, seven of the seventeen calls were only "possible," according even to

the OIC, App. at 116-26, and Ms. Lewinsky recalled fewer than seventeen, App. at 744), simply to state them is to reveal their utter immateriality.⁷⁸

The President categorically denies that his prepared statement was perjurious, false and misleading in any respect. He offered his written statement to focus the questioning in a manner that would allow the OIC to obtain the information it needed without unduly dwelling on the salacious details of his relationship. It preceded almost four hours of follow-up questions about the relationship. It is utterly remarkable that the Managers now find fault even with the President's very painful public admission of inappropriate conduct.

In any event, the charges are totally without merit. The Committee Report takes issue with the terms "on certain occasions" and "occasional," but neither phrase implies a definite or maximum number. "On certain occasions" -- the phrase introducing discussion of the physical contacts -- has virtually no meaning other than "it sometimes happened." It is unfathomable what objective interpretation the Majority gives to this phrase to suggest that it could be false. An attack on the phrase "occasional" -- the phrase introducing discussion of the inappropriate telephone contacts -- is little different. Dictionaries define "occasional" to mean "occurring at irregular or infrequent intervals" or "now and then."⁷⁹ It is a measure of the Committee Report's extraordinary overreaching to suggest that the eleven occasions of intimate

⁷⁸ Even the OIC Referral did not allege perjury based on these latter two theories and mentioned the first only briefly.

⁷⁹ *Webster's Collegiate Dictionary* (10th ed. 1997) p. 803; *see also Webster's II New Riverside Dictionary* (1988) p. 812 ("occurring from time to time; infrequent"); *Chambers English Dictionary* (1988 ed.) p. 992 ("occurring infrequently, irregularly, now and then"); *The American Heritage Dictionary* (2d Coll. ed.) ("occurring from time to time"); *Webster's New World Dictionary* (3d Coll. ed.) p. 937 ("of irregular occurrence; happening now and then; infrequent").

contact alleged by the House Majority over well more than a year did not occur, by any objective reading, "on certain occasions." And since even the OIC Referral acknowledges that the inappropriate telephone contact occurred not "at least 17 times" (as the Committee Report and the Managers suggest, Committee Report at 8; House Br. at 11) but between 10 and 15 times over a 23-month period,⁸⁰ "occasional" would surely seem not just a reasonable description but the correct one.

Finally, these squabbles are utterly immaterial. Even if the President and Ms. Lewinsky disagreed as to the precise number of such encounters, it is of no consequence whatsoever to anything, given his admission of their relationship. This is precisely the kind of disagreement that the law does not intend to capture as perjury.

The date of the first intimate encounter is also totally immaterial. Having acknowledged the relationship, the President had no conceivable motive to misstate the date on which it began. The Managers assert that the President committed perjury when he testified about when the relationship began, but they offer no rationale for why he would have done so.⁸¹ The President had already made a painful admission. Any misstatement about when the intimate

⁸⁰ The OIC chart of contacts between Ms. Lewinsky and the President identifies ten phone conversations "including phone sex" and seven phone conversations "possibly" including phone sex. App. at 116-26.

⁸¹ The Committee Report did not adopt the baseless surmise of the OIC Referral, *i.e.*, that the President lied about the starting date of his relationship because Ms. Lewinsky was still an intern at the time, whereas she later became a paid employee. For good reason. The only support offered by the Referral for this conjecture is a comment Ms. Lewinsky attributes to the President in which he purportedly said that her pink "intern pass" "might be a problem." Referral at 149-50. But even Ms. Lewinsky indicated that the President was not referring to her intern status, but rather was noting that, as an intern with a pink "intern pass," she had only limited access to the West Wing of the White House. App. at 1567 (Lewinsky FBI 302 8/24/98). Moreover, Ms. Lewinsky had in fact become an employee by late 1995, so even under the OIC theory the President could have acknowledged such intimate contact in 1995.

relationship began (if there was a misstatement) cannot justify a charge of perjury, let alone the removal of the President from office. As Chairman Hyde himself stated in reference to this latter allegation, "It doesn't strike me as a terribly serious count." Remarks of Chairman Hyde at Perjury Hearing of December 1, 1998.

b) The Managers also assert that the President lied when, after admitting that he had an inappropriate sexual relationship with Ms. Lewinsky, he maintained that he did not touch Ms. Lewinsky in a manner that met the definition used in the *Jones* deposition. See House Br. at 54. The President admits that he engaged in inappropriate physical contact with Ms. Lewinsky, but has testified that he did not engage in activity that met the convoluted and truncated definition he was presented in the *Jones* deposition.⁸²

⁸² At the deposition, the Jones attorneys presented a broad, three-part definition of the term "sexual relations" to be used by them in the questioning. Judge Wright ruled that two parts of the definition were "too broad" and eliminated them. Dep. at 22. The President, therefore, was presented with the following definition (as he understood it to have been amended by the Court):

Definition of Sexual Relations

For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes -

(1) contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person;

~~(2) contact between any part of the person's body or an object and the genitals and anus of another person; or~~

~~(3) contact between the genitals or anus of the person and any part of another person's body.~~

~~"Contact" means intentional touching, either directly or through clothing.~~

It is important to note that this *Jones* definition was not of the President's making. It was one provided to him by the Jones' lawyers for their questioning of him. Under that definition, oral sex performed by Ms. Lewinsky on the President would not constitute sexual relations, while touching certain areas of Ms. Lewinsky's body with the intent to arouse her would meet the definition. The President testified in the grand jury that believed that oral sex performed on him fell outside the *Jones* definition. App. at 544.⁸³ As strange as this may sound, a totally reasonable reading of the definition supports that conclusion, as many commentators have agreed.⁸⁴

This claim comes down to an oath against an oath about immaterial details concerning an acknowledged wrongful relationship.

⁸³ The Managers erroneously suggest that the President's explanation of his understanding of the *Jones* deposition definition of "sexual relations" is a recent fabrication rather than an accurate account of his view at the time of the deposition. House Br. at 54-55. To support this contention, the Managers, among other meritless arguments, point to a document produced by the White House entitled "January 24, 1998 Talking Points," stating that oral sex would constitute a sexual relationship for the President. *Id.* at 55. This document, however, was not created, reviewed or approved by the President and did not represent his views. It is irrelevant to the issue at hand for the additional reason that it does not speak by its own terms to the meaning of the contorted definition of "sexual relations" used in the *Jones* deposition.

⁸⁴ See, e.g., Perjury Hearing of December 1, 1998 (Statement of Professor Stephen A. Saltzburg at 2) ("That definition defined certain forms of sexual contact as sexual relations but, for reasons known only to the Jones lawyers, limited the definition to contact with any person for the purpose of gratification."); MSNBC Internight, August 12, 1998 (Cynthia Alksne) ("[W]hen the definition finally was put before the president, it did not include the receipt of oral sex"); "DeLay Urges a Wait For Starr's Report," *The Washington Times* (August 31, 1998) ("The definition of sexual relations, used by lawyers for Paula Jones when they questioned the president, was loosely worded and may not have included oral sex"); "Legally Accurate," *The National Law Journal* (August 31, 1998) ("Given the narrowness of the court-approved definition in [the *Jones*] case, Mr. Clinton indeed may not have perjured himself back then if, say, he received oral sex but did not reciprocate sexually").

2. The President denies that he made perjurious, false and misleading statements to the grand jury about testimony he gave in the *Jones* case

First, it is important to understand that the allegation of Article I that the President “willfully provided false and misleading testimony to the grand jury concerning ... prior perjurious, false and misleading testimony he gave in” the *Jones* deposition is premised on a misunderstanding of the President’s grand jury testimony. The President was not asked to, and he did not, reaffirm his entire *Jones* deposition testimony during his grand jury appearance. For example, contrary to popular myth and the undocumented assertion of the House Managers, House Br. at 2, the President was never even asked in the grand jury about his answer to the deposition question whether he and Ms. Lewinsky had been “together alone in the Oval Office,” Dep. at 52-53,⁸⁵ and he therefore neither reaffirmed it nor even addressed it. In fact, in the grand jury he was asked only about a small handful of his answers in the deposition. As is demonstrated below, his explanations of these answers were not reaffirmations or in any respect evasive or misleading -- they were completely truthful, and they do not support a perjury allegation.

The extent to which this allegation of the House Majority misses the mark is dramatically apparent when it is compared with the OIC’s Referral. The OIC did not charge that the President’s statements about his prior deposition testimony were perjurious (apart from the charge discussed above concerning the nature and details of his relationship with Ms. Lewinsky).

⁸⁵ The only questions the OIC asked the President about being alone with Ms. Lewinsky did not reference the deposition at all. Instead, the OIC asked the President to elaborate on his acknowledgement in his prepared statement before the grand jury that he had been alone with Ms. Lewinsky, App. at 481, and to explain why he made a statement, “I was never alone with her” to Ms. Currie on January 18th. See, e.g., App. at 583.

See OIC Ref. at 145.⁸⁶ It would be remarkable to contemplate charges beyond those brought by the OIC, particularly in the context of a perjury claim where the OIC chose what to ask the President and itself conducted the grand jury session.

The House Managers point to a single statement made by President Clinton in the grand jury to justify their contention that every statement from his civil deposition is now fair game. House Br. at 60. Specifically, the House Managers rely on President Clinton's explanation in the grand jury of his state of mind during the *Jones* deposition: "My goal in this deposition was to be truthful, but not particularly helpful ... I was determined to walk through the mine field of this deposition without violating the law, and I believe I did." App. at 532. In addition to being a true statement of his belief as to his legal position, this single remark plainly was not intended as and was not a broad reaffirmation of the accuracy of all the statements the President made during the *Jones* deposition. Indeed, given that he told the grand jury that he had an intimate relationship with Ms. Lewinsky during which he was alone with her, no one who heard the grand jury testimony could have understood it to be the unequivocal reaffirmation that is alleged.

The Managers charge that the President did not really mean it when he told the grand jury how he was trying to be literally truthful in the *Jones* deposition without providing information about his relationship with Ms. Lewinsky. The President had endeavored to navigate the deposition without having to make embarrassing admissions about his inappropriate,

⁸⁶ Specifically, the Referral alleges that the President lied when he testified (1) that "he believed that oral sex was not covered by any of the terms and definitions for sexual activity used at the *Jones* deposition;" (2) that their physical contact was more limited than Ms. Lewinsky's testimony suggests; and (3) that their intimate relationship began in early 1996 and not late 1995. *Id.* at 148-49.

albeit consensual, relationship with Ms. Lewinsky. And to do this, the President walked as close to the line between (a) truthful but evasive or non-responsive testimony and (b) false testimony as he could without crossing it. He sought, as he explained to the grand jury, to give answers that were literally accurate, even if, as a result, they were evasive and thus misleading. We repeat: what is at issue here is not the underlying statements made by the President in the deposition, but the President's explanations in the grand jury of his effort to walk a fine line. Anyone who reads or watches that deposition knows the President was in fact trying to do precisely what he has admitted -- to give the lawyers grudging, unresponsive or even misleading answers without actually lying. However successful or unsuccessful he might have been, there is no evidence that controverts the fact that this was indeed the President's intention.

An examination of the statements that the President actually did make in the grand jury about his deposition testimony further demonstrates the lack of merit in this article. In the grand jury, the President only was asked about three areas of his deposition testimony that were covered in the failed impeachment article alleging perjury in the civil deposition.⁸⁷ The first topic was the nature of any intimate contact with Ms. Lewinsky and has already been addressed above.

The second topic was the President's testimony about his knowledge of gifts he exchanged with Ms. Lewinsky. In his grand jury testimony, the President had the following exchange with the OIC:

⁸⁷ The proposed article of impeachment alleging perjury in the civil deposition, like the two that are before the Senate, did not identify any specific instances of false testimony, but we have made our comparison with the Committee Report's elaboration of the deposition perjury article as it undoubtedly represents the largest universe of alleged perjurious statements.

Q: When you testified in the Paula Jones case, this was only two and a half weeks after you had given her these six gifts, you were asked, at page 75 in your deposition, lines 2 through 5, "Well, have you ever given any gifts to Monica Lewinsky?" And you answer, "I don't recall."

And you were correct. You pointed out that you actually asked them, for prompting, "Do you know what they were?"

A: I think what I meant there was I don't recall what they were, not that I don't recall whether I had given them. And then if you see, they did give me these specifics, and I gave them quite a good explanation here. I remembered very clearly what the facts were about The Black Dog. ...

App. at 502-03. The President's explanation that he could not recall the exact gifts that he had given Ms. Lewinsky and that he affirmatively sought prompting from the *Jones* lawyers is entirely consistent with his deposition testimony. This record plainly does not support a charge of perjury.

The third and last topic was the President's deposition testimony that Ms. Lewinsky's affidavit statement denying have a sexual relationship with the President was correct:

Q: And you indicated that it [Ms. Lewinsky's affidavit statement that she had no sexual relationship with him] was absolutely correct.

A: I did. ... I believe at the time that she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate. And I believe that this is the definition that most ordinary Americans would give it. ...

App. at 473. The President's grand jury testimony was truthful. As Ms. Lewinsky and Ms. Tripp discussed long before any of this matter was public, this was in fact Ms. Lewinsky's definition of "sex" and apparently the President's as well. See Supp. at 2664 (10/3/97 Tape); see also App. at 1558 (Lewinsky FBI 302 8/19/98). There is no evidence whatever that the President did not believe this definition of sexual relations, and his belief finds support in dictionary

definitions, the courts and commentators.⁸⁸ Moreover, the record establishes that Ms. Lewinsky shared this view.⁸⁹ Since the President's grand jury testimony about his understanding is corroborated both by dictionaries and by his prior statements to Ms. Lewinsky, it simply cannot be labeled "wrong" or, more seriously, "perjurious."

The President did not testify falsely and perjurally in the grand jury about his civil deposition testimony.

⁸⁸ As one court has stated, "[i]n common parlance the terms 'sexual intercourse' and 'sexual relations' are often used interchangeably." *J.Y. v. D.A.*, 381 N.E.2d 1270, 1273 (Ind. App. 1978). Dictionary definitions make the same point:

- Webster's Third New International Dictionary (1st ed. 1981) at 2082, defines "sexual relations" as "coitus;"
- Random House Webster's College Dictionary (1st ed. 1996) at 1229, defines "sexual relations" as "sexual intercourse; coitus;"
- Merriam-Webster's Collegiate Dictionary (10th ed. 1997) at 1074, defines "sexual relations" as "coitus;"
- Black's Law Dictionary (Abridged 6th ed. 1991) at 560, defines "intercourse" as "sexual relations;" and
- Random House Compact Unabridged Dictionary (2d ed. 1996) at 1755, defines "sexual relations" as "sexual intercourse; coitus."

⁸⁹ Ms. Lewinsky took the position early on that her contact with the President did not constitute "sex" and reaffirmed that position even after she had received immunity and began cooperating with the OIC. For example, in one of the conversations surreptitiously taped by Ms. Tripp, Ms. Lewinsky explained to Ms. Tripp that she "didn't have sex" with the President because "[h]aving sex is having intercourse." Supp. at 2664; *see also* Supp. at 1066 (grand jury testimony of Ms. Neysa Erbland stating that Ms. Lewinsky had said that the President and she "didn't have sex"). Ms. Lewinsky reaffirmed this position even after receiving immunity, stating in an FBI interview that "her use of the term 'having sex' means having intercourse. . . ." App. at 1558 (Lewinsky FBI 302 8/19/98). Likewise, in her original proffer to the OIC, she wrote, "Ms. L[ewinsky] was comfortable signing the affidavit with regard to the 'sexual relationship' because she could justify to herself that she and the Pres[ident] did not have sexual intercourse." App. at 718 (2/1/98 Proffer).

3. **The President denies that he made perjurious, false and misleading statements to the grand jury about the statements of his attorney to Judge Wright during the *Jones* deposition.**

It is remarkable that Article I contains allegations such as this one that even the OIC, which conducted the President's grand jury appearance, chose not to include in the Referral (presumably because there was no "substantial and credible information" to support the claim). Subpart (3) appears to allege that the President lied in his grand jury testimony when he characterized his state of mind in his civil deposition as his lawyer described the Lewinsky affidavit as meaning "there is no sex of any kind in any manner, shape or form." Dep. at 53-54. Specifically, the House Managers appear to base their perjury claim on President Clinton's grand jury statement that "I'm not even sure I paid attention to what he [Mr. Bennett] was saying." House Br. at 62.

The House Brief takes issue with President Clinton's statement that he was "not paying a great deal of attention to this exchange" because, it alleges, the "videotape [of the deposition] shows the President looking directly at Mr. Bennett, paying close attention to his argument to Judge Wright." *Ibid.* While it is true that the videotape shows the President staring in what is presumably Mr. Bennett's direction, there is no evidence whatsoever that he was indeed "paying close attention" to the lengthy exchange. Notably absent from the videotape is any action on the part of the President that could be read as affirming Mr. Bennett's statement, such as a nod of the head, or any other activity that could be used to distinguish between a fixed stare and true attention to the complicated sparring of counsel. The President was a witness in a difficult and complex deposition and, as he testified, he was "focussing on [his] answers to the

questions.” App. at 477. It is a safe bet that the common law has never seen a perjury charge based on so little.⁹⁰

4. **The President denies that he made perjurious, false and misleading statements to the grand jury when he denied attempting “to influence the testimony of witnesses and to impede the discovery of evidence” in the Jones case**

The general language of the final proviso of Article I, according to the House Managers, is meant to signify a wide range of allegations, *see* House Br. at 60-69, although none were thought sufficiently credible to be included in the OIC Referral. These allegations were not even included in the summary of the Starr evidence presented to the Committee on October 5, 1998, by House Majority Counsel Schippers. They are nothing more than an effort to inflate the perjury allegations by converging every statement that the President made about the subject matter of Article II into a new count for perjury. As the discussion of Article II establishes, the President did not attempt to obstruct justice. Thus, his explanations of his statements in the grand jury were truthful.

The House Brief asserts that the President committed perjury with respect to three areas of his grand jury testimony about the obstruction allegations. These claims are addressed thoroughly in the next section along with the corresponding Article II obstruction claims, and they are addressed in a short form here. The first claim is that the President committed perjury “when he testified before the grand jury that he recalled telling Ms. Lewinsky that if Ms. Jones’ lawyers requested the gifts exchanged between Ms. Lewinsky and the President, she should provide them.” House Br. at 63. The House

⁹⁰ This allegation is nearly identical to the allegation of Article II (5), and, for the sake of brevity, it is addressed at greater length in the response to Article II, below.

Managers contest the truthfulness of this statement by asserting that the President was responsible for Ms. Lewinsky's transfer of gifts to Ms. Currie in late December. In other words, if the obstruction claim is true, they allege, this statement is not true. As is laid out in greater detail in the next section, the House Manager's view of this matter ignores a wealth of evidence establishing that the idea to conceal some of the gifts she had received originated with, and was executed by, Ms. Lewinsky. *See, e.g.*, Supp. at 557 (Currie GJ 1/27/98); Supp. at 531 (Currie FBI 302 1/24/98); Supp. at 582 (Currie GJ 5/6/98); App. at 1122 (Lewinsky GJ 8/20/98); *see also* App. at 1481 ("LEWINSKY . . . suggested to the President that Betty Currie hold the gifts.") (Lewinsky FBI 302 8/1/98).

Second, the House Managers contend that the President provided perjurious testimony when he explained to the grand jury that he was trying to "refresh" his recollection when he spoke with Betty Currie on January 18, 1998 about his relationship with Ms. Lewinsky. House Br. at 65. The House Managers completely ignore the numerous statements that Ms. Currie makes in her testimony that support the President's assertion that he was merely trying to gather information. For example, Ms. Currie stated in her first interview with the OIC that "Clinton then mentioned some of the questions he was asked at his deposition. Currie advised the way Clinton phrased the queries, they were both statements and questions at the same time." Supp. at 534 (Currie FBI 302 1/24/98). Ms. Currie's final grand jury testimony on this issue also supports the President's explanation of his questioning:

Q: Now, back again to the four statements that you testified the President made to you that were presented as statements, did you feel pressured when he told you those statements?

A: None whatsoever.

Q: What did you think, or what was going through your mind about what he was doing?

A: At that time I felt that he was -- I want to use the word shocked or surprised that this was an issue, and he was just talking.

Q: That was your impression that he wanted you to say -- because he would end each of the statements with "Right?" with a question.

A: I do not remember that he wanted me to say "Right." He would say "Right" and I could have said, "Wrong."

Q: But he would end each of those questions with a "Right?" and you could either say whether it was true or not true?

A: Correct.

Q: Did you feel any pressure to agree with your boss?

A: None.

Supp. at 668 (Currie GJ 7/22/98) (emphasis added).

Ms. Currie's testimony supports the President's assertion that he was looking for information as a result of his deposition. There is no basis to doubt the President's explanation that his expectation of a media onslaught prompted the conversation. *See* App. at 583. Indeed, neither the testimony of Ms. Currie nor that of the President -- the only two participants in this conversation -- conceivably supports the inference that he had any other intent. The House Managers' contention that the President's explanation to the grand jury was perjurious totally disregards the testimony of the only two witnesses with first-hand knowledge and has no basis in fact or in the evidence.

Finally, the House Managers contend that President Clinton "lied about his attempts to influence the testimony of some of his top aides." House Br. at 68. The basis for this charge appears to be the President's testimony that, although he said misleading things to his

aides about his relationship with Ms. Lewinsky, he tried to say things that were true. *Id.* at 69. Once again, the record does not even approach a case for perjury. The President acknowledged that he misled; he tried, however, not to lie. It is a mystery how the Managers could try to disprove this simple statement of intent.

V. THE PRESIDENT SHOULD BE ACQUITTED ON ARTICLE II

The evidence does not support the allegations of Article II.

A. Applicable Law

Article II alleges obstruction of justice, a statutory crime that is set forth in 18 U.S.C. § 1503, the "Omnibus Obstruction Provision." In the criminal law context, § 1503 requires proof of the following elements: (1) that there existed a pending judicial proceeding; (2) that the accused knew of the proceeding; and (3) that the defendant acted "corruptly" with the specific intent to obstruct or interfere with the proceeding or due administration of justice. *See, e.g., United States v. Bucey*, 876 F.2d 1297, 1314 (7th Cir. 1989). False statements alone cannot sustain a conviction under § 1503. *See United States v. Thomas*, 916 F.2d 647, 652 (11th Cir. 1990).⁹¹

⁹¹ 18 U.S.C. § 1512 covers witness tampering. It is clear that the allegations in Article II could not satisfy the elements of § 1512. That provision requires proof that a defendant knowingly engaged in intimidation, physical force, threats, misleading conduct, or corrupt persuasion with intent to influence, delay, or prevent testimony or cause any person to withhold objects or documents from an official proceeding. It is clear from the case law that "misleading conduct" as contemplated by § 1512 does not cover scenarios where an accused urged a witness to give false testimony without resorting to coercive or deceptive conduct. *See, e.g., United States v. Kulczyk*, 931 F.2d 542, 547 (9th Cir. 1991) (reversing conviction under § 1512 because "there is simply no support for the argument that [defendant] did anything other than ask the witnesses to lie"); *United States v. King*, 762 F.2d 232, 237 (2d Cir. 1985) ("Since the only allegation in the indictment as to the means by which [defendant] induced [a witness] to withhold testimony was that [the defendant] misled [the witness], and since the evidence failed totally to support any inference that [the witness] was, or even could have been, misled, the

B. Structure of the Allegations

Article II exhibited by the House of Representatives alleges that the President “has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony” in the *Jones* case. The Article alleges that the President did so by engaging in “one or more of the following acts”: the President (1) corruptly encouraged Ms. Lewinsky “to execute a sworn affidavit ... that he knew to be perjurious, false and misleading”; (2) “corruptly encouraged Ms. Lewinsky to give perjurious, false, and misleading testimony if and when called to testify personally” in the *Jones* case; (3) “corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed” in the *Jones* case, namely gifts given by him to Ms. Lewinsky; (4) “intensified and succeeded in an effort to secure job assistance” for Ms. Lewinsky between December 7, 1997 and January 14, 1998, “in order to corruptly prevent [her] truthful testimony” in the *Jones* case; (5) “corruptly allowed his attorney to make false and misleading statements” to Judge Susan Webber Wright at the *Jones* deposition; (6) “related a false and misleading account of events” involving Ms. Lewinsky to Betty Currie, a “potential witness” in the *Jones* case, “in order to corruptly influence” her testimony; and (7) made false and misleading statements to certain members of his staff who were “potential” grand jury witnesses, in order to corruptly influence their testimony.

As noted above, this article essentially duplicates some of the perjury allegations of Article I (4): Article II alleges particular acts of obstruction while Article I (4) alleges that the

conduct proven by the government was not within the terms of § 1512.”). Deceit is thus the gravamen of an obstruction of justice charge that is predicated on witness tampering.

President lied in the grand jury when he discussed those allegations.⁹² Both sets of allegations are unsupported. Our discussion here of the details of these charges will, as well, serve in part as our response to the allegations in Article I (4).

C. Response to the Particular Allegations in Article II

1. **The President denies that on or about December 17, 1997, he “corruptly encouraged” Monica Lewinsky “to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading”**

Article II (1) alleges that the President “corruptly encouraged” Monica Lewinsky “to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.” The House Managers allege that during a December 17 phone conversation, Ms. Lewinsky asked the President what she could do if she were subpoenaed in the *Jones* case and that the President responded, “Well, maybe you can sign an affidavit.” House Br. at 22. This admitted statement by the President of totally lawful conduct is the Managers’ entire factual basis for the allegation in Article II (1).

The Managers do not allege that the President ever suggested to Ms. Lewinsky she should file a false affidavit or otherwise told her what to say in the affidavit. Indeed they could not, because Ms. Lewinsky has repeatedly and forcefully denied any such suggestions:

- “Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged

⁹² Compare Article I (4) (perjury in the grand jury concerning alleged “corrupt efforts to influence testimony of witnesses and to impede the discovery of evidence”) with Article II (1)-(3), (6) (obstructing justice when he (1) “encouraged a witness . . . to execute a [false] sworn affidavit”; (2) “encouraged a witness . . . to give perjurious, false and misleading testimony”; (3) “engaged in, encouraged, or supported a scheme to conceal evidence”; (6) “corruptly influence[d] the testimony” of Betty Currie). Compare also Article I (3) (perjury in the grand jury concerning alleged “prior false and misleading statements he allowed his attorney to make to a Federal judge”) with Article II (5) (obstructing justice by “allow[ing] his attorney to make false and misleading statements to a Federal judge).

Ms. L[ewinsky] to lie.” App. at 718 (2/1/98 Proffer).

- “[N]o one ever asked me to lie and I was never promised a job for my silence.” App. at 1161 (Lewinsky GJ 8/20/98).
- “Neither the President nor Jordan ever told Lewinsky that she had to lie.” App. at 1398 (Lewinsky FBI 302 7/27/98).
- “Neither the President nor anyone ever directed Lewinsky to say anything or to lie. . . .” App. at 1400 (Lewinsky FBI 302 7/27/98).
- “I think I told [Linda Tripp] that -- you know at various times the President and Mr. Jordan had told me I have to lie. That wasn’t true.” App. at 942 (Lewinsky GJ 8/6/98).

In an attempt to compensate for the total lack of evidence supporting their theory,⁹³ the Managers offer their view that “both parties knew the affidavit would have to be false and misleading in order to accomplish the desired result.” House Br. at 22; *see also* Committee Report at 65 (the President “knew [the affidavit] would have to be false for Ms. Lewinsky to avoid testifying”). But there is no evidence to support such bald conjecture, and in fact the opposite is true. Both Ms. Lewinsky and the President testified that, given the particular claims in the *Jones* case, they thought a truthful, limited affidavit might establish that Ms. Lewinsky had nothing relevant to offer. The President explained to the grand jury why he believed that Ms. Lewinsky could execute a truthful but limited affidavit that would have established that she was not relevant to the *Jones* case:⁹⁴

⁹³ The myth that the President told Ms. Lewinsky to lie in her affidavit springs not from the evidence but from the surreptitiously recorded Tripp tapes. But as Ms. Lewinsky explained to the grand jury, many of the statements she made to Ms. Tripp -- including on this subject -- were not true: “I think I told [Linda Tripp] that -- you know at various times the President and Mr. Jordan had told me I have to lie. That wasn’t true.” App. at 942 (Lewinsky GJ 8/6/98).

⁹⁴ Indeed, the Committee Report alleges without support that the President lied to the grand jury when he indicated his *belief* that Ms. Lewinsky could indeed have filed a truthful

- “But I’m just telling you that it’s certainly true what she says here, that we didn’t have -- there was no employment, no benefit in exchange, there was nothing having to do with sexual harassment. And if she defined sexual relationship in the way I think most Americans do, meaning intercourse, then she told the truth.” App. at 474.
- “You know, I believed then, I believe now, that Monica Lewinsky could have sworn out an honest affidavit, that under reasonable circumstances, and without the benefit of what Linda Tripp did to her, would have given her a chance not to be a witness in this case.” App. at 521.
- “I believed then, I believe today, that she could execute an affidavit which, under reasonable circumstances with fair-minded, nonpolitically-oriented people, would result in her being relieved of the burden to be put through the kind of testimony that, thanks to Linda Tripp’s work with you and with the Jones lawyers, she would have been put through. I don’t think that’s dishonest. I don’t think that’s illegal.” App. at 529.
- “But I also will tell you that I felt quite comfortable that she could have executed a truthful affidavit, which would not have disclosed the embarrassing details of the relationship that we had had, which had been over for many, many months by the time this incident occurred.” App. at 568-69.
- “I’ve already told you that I felt strongly that she could issue, that she could execute an affidavit that would be factually truthful, that might get her out of having to testify. . . . And did I hope she’d be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not.” App. at 571.

The *Jones* case involved allegations of a nonconsensual sexual solicitation. Ms. Lewinsky’s relationship with the President was consensual, and she knew nothing about the factual allegations of the *Jones* case.

Ms. Lewinsky similarly recognized that an affidavit need not be false in order to accomplish the purpose of avoiding a deposition:

- LEWINSKY told TRIPP that the purpose of the affidavit was to avoid being deposed. LEWINSKY advised that one does this by giving a portion of the whole story, so the attorneys do not think you have anything of relevance to their case. App. at 1420 (Lewinsky FBI 302 7/29/98) (emphasis added).

but limited affidavit that might have gotten her out of testifying in the *Jones* case. Article I (4). This claim fails for the reasons discussed in the text.

- LEWINSKY advised the goal of an affidavit is to be as benign as possible, so as to avoid being deposed. App. at 1421 (Lewinsky FBI 302 7/29/98) (emphasis added).
- I thought that signing an affidavit could range from anywhere -- the point of it would be to deter or to prevent me from being deposed and so that that could range from anywhere between maybe just somehow mentioning, you know, innocuous things or going as far as maybe having to deny any kind of a relationship. App. at 842 (Lewinsky GJ 8/6/98) (emphasis added).

The Committee Report argued that Ms. Lewinsky must have known that the President wanted her to lie because he never told her to fully detail their relationship in her affidavit and because an affidavit fully detailing the "true nature" of their relationship would have been damaging to him in the *Jones* case. Committee Report at 65. The Managers wisely appear to have abandoned this argument.⁹⁵ Ms. Lewinsky plainly was under no obligation to volunteer to the Jones lawyers every last detail about her relationship with the President -- and the failure of the President to instruct her to do so is neither wrong nor an obstruction of justice. A limited, truthful affidavit might have established that Ms. Lewinsky was not relevant to the *Jones* case. The suggestion that perhaps Ms. Lewinsky could submit an affidavit in lieu of a deposition, as the President knew other potential deponents in the *Jones* case had attempted to do, in order to avoid the expense, burden, and humiliation of testifying in the *Jones* case was

⁹⁵ The Committee Report argued that Ms. Lewinsky "contextually understood that the President wanted her to lie" because he never told her to file an affidavit fully detailing the "true nature" of their relationship. Committee Report at 65. The only support cited for this "contextual understanding" obstruction theory advanced by the Committee Report was a reference back to the OIC Referral. The OIC Referral, in turn, advanced the same theory, citing only the testimony of Ms. Lewinsky that, while the President never encouraged her to lie, he remained silent about what she should do or say, and by such silence, "I knew what that meant." App. at 954 (Lewinsky GJ 8/6/98) (cited in Referral at 174). It is extraordinary that the President of the United States could face removal from office not because he told Ms. Lewinsky to lie, or said anything of the sort, but instead because he stayed silent -- and Ms. Lewinsky thought she "knew what that meant."

entirely proper. The notion that the President of the United States could face removal from office not because he told Monica Lewinsky to lie, or encouraged her to do so, but because he did not affirmatively instruct her to disclose every detail of their relationship to the *Jones* lawyers is simply not supportable.

Moreover, there is significant evidence in the record that, at the time she executed the affidavit, Ms. Lewinsky honestly believed that her denial of a sexual relationship was accurate given what she believed to be the definition of a "sexual relationship":

- "I never even came close to sleeping with [the President] . . . We didn't have sex . . . Having sex is having intercourse. That's how most people would --" Supp. at 2664 (Lewinsky-Tripp tape 10/3/97).⁹⁶
- "Ms. L[jewinsky] was comfortable signing the affidavit with regard to the sexual relationship because she could justify to herself that she and the Pres[ident] did not have sexual intercourse." App. at 718 (2/1/98 Proffer).
- "Lewinsky said that her use of the term 'having sex' means having intercourse. . . ." App. at 1558 (Lewinsky FBI 302 8/19/98).

The allegation contained in Article II (1) is totally unsupported by evidence. It is the product of a baseless hypothesis, and it should be rejected.

⁹⁶ A friend of Ms. Lewinsky's also testified that, based on her close relationship with her, she believed that Ms. Lewinsky did not lie in her affidavit based on her understanding that when Ms. Lewinsky referred to "sex" she meant intercourse. Supp. at 4597 (6/23/98 grand jury testimony of Ms. Dale Young). See also Supp. at 1066 (grand jury testimony of Ms. Neysa Erbland stating that Ms. Lewinsky had said that the President and she "didn't have sex").

2. The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to give perjurious, false and misleading testimony if and when called to testify personally" in the Jones litigation

Article II (2) alleges that the President encouraged Ms. Lewinsky to give false testimony if and when she was called to testify personally in the *Jones* litigation. Again, Ms. Lewinsky repeatedly denied that anyone told her or encouraged her to lie:

- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie." App. at 718 (2/1/98 Proffer).
- "[N]o one ever asked me to lie and I was never promised a job for my silence." App. at 1161 (Lewinsky GJ 8/20/98).
- "Neither the President nor Jordan ever told Lewinsky that she had to lie." App. at 1398 (Lewinsky FBI 302 7/27/98).
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie. . . ." App. at 1400 (Lewinsky FBI 302 7/27/98).
- "I think I told [Linda Tripp] that -- you know at various times the President and Mr. Jordan had told me I have to lie. That wasn't true." App. at 942 (Lewinsky GJ 8/6/98) (emphasis added).

The Managers allege that the President called Ms. Lewinsky on December 17 to inform her that she had been listed as a potential witness in the *Jones* case, and that during this conversation, he "sort of said, 'You know, you can always say you were coming to see Betty or that you were bringing me letters.'" House Br. at 22; App. at 843 (Lewinsky GJ 8/6/98). Other than the fact that Ms. Lewinsky recalls this statement being made in the same conversation in which she learned that her name was on the *Jones* witness list, the Managers cite no evidence whatsoever that supports their claim that the President encouraged her to make such statements "if and when called to testify personally in the *Jones* case." They claim simply that Ms. Lewinsky had discussed such explanations for her visits with the President in the past.

Unremarkably, the President and Ms. Lewinsky had been concerned about concealing their improper relationship from others while it was ongoing.

Ms. Lewinsky's own testimony and proffered statements undercut their case:

- When asked what should be said if anyone questioned Ms. Lewinsky about her being with the President, he said she should say she was bringing him letters (when she worked in Legislative Affairs) or visiting Betty Currie (after she left the WH). There is truth to both of these statements.... [This] occurred prior to the subpoena in the Paula Jones case. App. at 709 and 718 (2/1/98 Proffer) (emphasis added).
- After Ms. Lewinsky was informed, by the Pres[ident], that she was identified as a possible witness in the Jones case, the Pres[ident] and Ms. L[ewinsky] discussed what she should do. The President told her he was not sure she would be subpoenaed, but in the event that she was, she should contact Ms. Currie. When asked what to do if she was subpoenaed, the Pres[ident] suggested she could sign an affidavit to try to satisfy their inquiry and not be deposed. In general, Ms. L[ewinsky] should say she visited the WH to see Ms. Currie and, on occasion when working at the WH, she brought him letters when no one else was around. Neither of those statements untrue. App. at 712 (2/1/98 Proffer) (emphasis added).
- To the best of Ms. L[ewinsky]'s memory, she does not believe they discussed the content of any deposition that Ms. L[ewinsky] might be involved in at a later date. App. at 712 (2/1/98 Proffer) (emphasis added).
- LEWINSKY advised, though they did not discuss the issue in specific relation to the JONES matter, she and CLINTON had discussed what to say when asked about LEWINSKY's visits to the White House. App. at 1466 (Lewinsky FBI 302 7/31/98) (emphasis added).

Ms. Lewinsky's statements indicate that she asked the President what to say if "anyone" asked about her visits, that the President said "in general" she could give such an explanation, and that they "did not discuss the issue in specific relation to the Jones matter."

This is consistent with the President's testimony that he and Ms. Lewinsky "might have talked about what to do in a non-legal context at some point in the past," although he had no specific memory of that conversation. App. at 569. The President also stated in his grand

jury testimony that he did not recall saying anything like that in connection with Ms. Lewinsky's testimony in the *Jones* case:

- Q. And in that conversation, or in any conversation in which you informed her she was on the witness list, did you tell her, you know, you can always say that you were coming to see Betty or bringing me letters? Did you tell her anything like that?
- A. I don't remember. She was coming to see Betty. I can tell you this. I absolutely never asked her to lie.

App. at 568. Ms. Lewinsky does not testify that this discussion was had in reference to testimony she may or may not have been called to give personally, and the Managers' implication is directly contradicted by Ms. Lewinsky's statement that she and the President did not discuss her deposition testimony in that conversation. See App. at 712 (2/1/98 Proffer) ("To the best of Ms. L[ewinsky's] memory, she does not believe they discussed [in the December 17 conversation] the content of any deposition that Ms. L[ewinsky] might be involved in at a later date.").

In support of this allegation, the Managers also cite Ms. Lewinsky's testimony that she told the President she would deny the relationship and that the President made some encouraging comment. House Br. at 23. Ms. Lewinsky never stated that she told the President any such thing on December 17, or at any other time after she had been identified as a witness. Indeed, Ms. Lewinsky testified that that discussion did not take place after she learned she was a witness in the *Jones* case:

- Q: It is possible that you also had these discussions [about denying the relationship] after you learned that you were a witness in the Paula Jones case?
- A: I don't believe so. No.
- Q: Can you exclude that possibility?
- A: I pretty much can. I really don't remember it. I mean, it would be very surprising for me to be confronted with something that would show me different, but I -- it

was 2:30 in the -- I mean, the conversation I'm thinking of mainly would have been December 17th, which was --

Q: The telephone call.

A: Right. And it was -- you know, 2:00, 2:30 in the morning. I remember the gist of it and I -- I really don't think so.

App. at 1119-20 (Lewinsky GJ 8/20/98) (emphasis added).

Moreover, Ms. Lewinsky has stated several times that neither of these so-called "cover stories" was untrue. In her handwritten proffer, Ms. Lewinsky stated that she asked that the President what to say if anyone asked her about her visits to the Oval Office and he said that she could say "she was bringing him letters (when she worked in Legislative Affairs) or visiting Betty Currie (after she left the White House)." App. at 709 (Lewinsky 2/1/98 Proffer). Ms. Lewinsky expressly stated: "There is truth to both of these statements." *Id.* (emphasis added); *see also* App. at 712 (2/1/98 Proffer) ("[n]either of those statements [was] untrue.") (emphasis added). Indeed, Ms. Lewinsky testified to the grand jury that she did in fact bring papers to the President and that on some occasions, she visited the Oval Office only to see Ms. Currie:

Q: Did you actually bring [the President] papers at all?

A: Yes.

Q: All right. Tell us a little about that.

A: It varied. Sometimes it was just actual copies of letters. . . .

App. at 774-75 (Lewinsky GJ 8/6/98).

I saw Betty on every time that I was there ... most of the time my purpose was to see the President, but there were some times when I did just go see Betty but the President wasn't in the office.

App. at 775 (Lewinsky GJ 8/6/98). The Managers assert that these stories were misleading.

House Br. at 23; *see also* Committee Report at 66 (delivering documents to the President was a "ruse that had no legitimate business purpose."). In other words, while the so-called "cover stories" were literally true, such explanations might have been misleading. But literal truth is a

critical issue in perjury and obstruction cases, as is Ms. Lewinsky's belief that the statements were, in fact, literally true.

The allegation contained in Article II (2) is unsupported by the evidence and should be rejected.

3. The President denies that he "corruptly engaged in, encouraged, or supported a scheme to conceal evidence" -- gifts he had given to Monica Lewinsky -- in the Jones case

This allegation charges that the President participated in a scheme to conceal certain gifts he had given to Monica Lewinsky. It apparently centers on two events allegedly occurring in December 1997: (a) a conversation between the President and Ms. Lewinsky in which the two allegedly discussed the gifts the President had given Ms. Lewinsky, and (b) Ms. Currie's receipt of a box of gifts from Ms. Lewinsky and storage of them under her bed. The evidence does not support the charge.

a. Ms. Lewinsky's December 28 Meeting with the President

Monica Lewinsky met with the President on December 28, 1997, sometime shortly after 8:00 a.m. to pick up Christmas presents. App. at 868 (Lewinsky GJ 8/6/98). According to Ms. Lewinsky, she raised the subject of gifts she had received from the President in relation to the *Jones* subpoena, and this was the first and only time that this subject arose. App. at 1130 (Lewinsky GJ 8/20/98); App. at 1338 (Lewinsky Depo. 8/26/98).

The House Trial Brief and the Committee Report quote one version of Ms. Lewinsky's description of that December 28 conversation:

"[A]t some point I said to him, 'Well, you know, should I -- maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.' And he sort of said -- I think he responded, 'I don't know' or 'Let me think about that.' And left that topic." App. at 872 (Lewinsky GJ 8/6/98).

In fairness, the Senate should be aware that Ms. Lewinsky has addressed this crucial exchange with prosecutors on at least ten different occasions, which we lay out in the margin for review.⁹⁷ The accounts varied -- in some Ms. Lewinsky essentially recalled that the

⁹⁷

Those statements, from earliest to latest in time:

1. Proffer (2/1/98): "Ms. L then asked if she should put away (outside her home) the gifts he had given her or, maybe, give them to someone else." App. at 715.
2. FBI 302 (7/27/98): "LEWINSKY expressed her concern about the gifts that the President had given LEWINSKY and specifically the hat pin that had been subpoenaed by PAULA JONES. The President seemed to know what the JONES subpoena called for in advance and did not seem surprised about the hat pin. The President asked LEWINSKY if she had told anyone about the hat pin and LEWINSKY denied that she had, but may have said that she gave some of the gifts to FRANK CARTER. ...LEWINSKY asked the President if she should give the gifts to someone and the President replied 'I don't know.'" App. at 1395.
3. FBI 302 (8/1/98): "LEWINSKY said that she was concerned about the gifts that the President had given her and suggested to the President that BETTY CURRIE hold the gifts. The President said something like, 'I don't know,' or 'I'll think about it.' The President did not tell LEWINSKY what to do with the gifts at that time." App. at 1481.
4. Grand Jury (8/6/98): "[A]t some point I said to him, 'Well, you know, should I -- maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.' And he sort of said -- I think he responded, 'I don't know' or 'Let me think about that.' And left that topic." App. at 872.
5. FBI 302 (8/13/97): "During their December 28, 1997 meeting, CLINTON did not specifically mention which gifts to get rid of." App. at 1549.
6. Grand Jury (8/20/98): "It was December 28th and I was there to get my Christmas gifts from him... And we spent maybe about five minutes or so, not very long, talking about the case. And I said to him, 'Well, do you think'... And at one point, I said, 'Well do you think I should--' I don't think I said 'get rid of,' I said, 'But do you think I should put away or maybe give to Betty or give someone the gifts?' And he -- I don't remember his response. I think it was something like, 'I don't know,' or 'Hmm,' or -- there really was no response." App. at 1121-22.
7. Grand Jury (8/20/98): "A JUROR: Now, did you bring up Betty's name [at the December 28 meeting during which gifts were supposedly discussed] or did the President bring up Betty's name? THE WITNESS: I think I brought it up. The President wouldn't have brought up Betty's name because he really didn't -- he really didn't discuss it..." App. at 1122.

President gave no response, but the House Managers, like the Committee Report and the OIC Referral, cite only the account most favorable to their case, failing even to take note of the other inconsistent recollections. But the important fact about Ms. Lewinsky's various descriptions of this conversation is that, at the very most, the President stated "I don't know" or "Let me think about it" when Ms. Lewinsky raised the issue of the gifts. Even by the account most unfavorable to the President, the record is clear and unambiguous that the President never initiated any discussion about the gifts nor did he tell or even suggest to Ms. Lewinsky that she should conceal the gifts.

Indeed, on several occasions, Ms. Lewinsky's accounts of the President's reaction depict the President as not even acknowledging her suggestion. Among those versions, ignored by the Committee Report and the Managers, are the following:

- "And he -- I don't remember his response. I think it was something like, 'I don't know,' or 'Hmm,' or -- there really was no response." App. at 1122 (Lewinsky GJ 8/20/98) (emphasis added).

8. Grand Jury (8/20/98): "A JUROR: You had said that the President had called you initially to come get your Christmas gift, you had gone there, you had a talk, et cetera, and there was no -- you expressed concern, the President really didn't say anything." App. at 1126.

9. FBI 302 (8/24/98): "LEWINSKY advised that CLINTON was sitting in the rocking chair in the Study. LEWINSKY asked CLINTON what she should do with the gifts CLINTON had given her and he either did not respond or responded 'I don't know.' LEWINSKY is not sure exactly what was said, but she is certain that whatever CLINTON said, she did not have a clear image in her mind of what to do next." App. at 1566.

10. FBI 302 (9/3/98): "On December 28, 1997, in a conversation between LEWINSKY and the President, the hat pin given to Lewinsky by the President was specifically discussed. They also discussed the general subject of the gifts the President had given Lewinsky. However, they did not discuss other specific gifts called for by the PAULA JONES subpoena. LEWINSKY got the impression that the President knew what was on the subpoena." App. at 1590.

- “[The President] either did not respond or responded ‘I don’t know.’ LEWINSKY is not sure exactly what was said, but she is certain that whatever CLINTON said, she did not have a clear image in her mind of what to do next.” App. at 1566 (Lewinsky FBI 302 8/24/98) (emphasis added).
- “The President wouldn’t have brought up Betty’s name, because he really didn’t -- he really didn’t discuss it . . .” App. at 1122 (Lewinsky GJ 8/20/98) (emphasis added).
- “A JUROR: You had said that the President had called you initially to come get your Christmas gift, you had gone there, you had a talk, et cetera, and there was no -- you expressed concern, the President didn’t really say anything.” App. at 1126 (Lewinsky GJ 8/20/98) (emphasis added).⁹⁸

Thus, the evidence establishes that there was essentially no discussion of gifts.

That December 28 meeting provides no evidence of any “scheme . . . designed to . . . conceal the existence” of any gifts.

b. Ms. Currie’s Supposed Involvement in Concealing Gifts

Because the record is devoid of any evidence of obstruction by the President at his December 28 meeting with Monica Lewinsky, Article II (3) necessarily depends on the added assumption that, after the December 28 meeting, the President must have instructed his secretary, Ms. Betty Currie, to retrieve the gifts from Ms. Lewinsky, thereby consummating the obstruction of justice. As the following discussion will demonstrate, the record is devoid of any direct evidence that the President discussed this subject with Ms. Currie. At most, it conflicted on the question of whether Ms. Currie or Ms. Lewinsky initiated the gift retrieval.

We begin with what is certain. The record is undisputed that Ms. Currie picked up a box containing gifts from Ms. Lewinsky and placed them under her bed at home. The primary factual dispute, therefore, is which of the two initiated the pick-up. According to the

⁹⁸ Here a grand juror is restating Ms. Lewinsky’s earlier testimony, with which Ms. Lewinsky appeared to agree (she did not dispute the accuracy of the grand juror’s recapitulation).

logic of the Committee Report, if Ms. Currie initiated the retrieval, she must have been so instructed by the President. Committee Report at 69 ("there is no reason for her to do so unless instructed by the President").

But the facts are otherwise. Both Ms. Currie and the President have denied ever having any such conversation wherein the President instructed Ms. Currie to retrieve the gifts from Ms. Lewinsky. App. at 502 (President Clinton GJ 8/17/98); Supp. at 581 (Currie GJ 5/6/98). In other words, the only two parties who could have direct knowledge of such an instruction by the President have denied it took place.

In the face of this direct evidence that the President did not ask Ms. Currie to pick up these gifts, the Committee Report's obstruction theory hinges on the inference that Ms. Currie called Ms. Lewinsky and must have done so at the direction of the President. To be sure, Ms. Lewinsky has stated on several occasions that Ms. Currie initiated a call to her to inquire about retrieving something. The Managers and the Committee Report cited the following passage from Ms. Lewinsky's grand jury testimony:

Q: What did [Betty Currie] say?

A: She said, "I understand you have something to give me." Or, "The President said you have something to give me." Along those lines. . . .

Q: When she said something along the lines of "I understand you have something to give me," or "The President says you have something for me," what did you understand her to mean?

A: The gifts.

App. at 874 (Lewinsky GJ 8/6/98). *See also* App. at 715 (2/1/98 Proffer) ("Ms. Currie called Ms. L later that afternoon and said that the Pres. had told her Ms. L wanted her to hold onto to something for her.").

However, Ms. Lewinsky acknowledged that it was she who first raised the prospect of Ms. Currie's involvement in holding the gifts:

A JUROR: Now, did you bring up Betty's name or did the President bring up Betty's name?

[MS. LEWINSKY]: I think I brought it up. The President wouldn't have brought up Betty's name because he really didn't -- he really didn't discuss it.

App. at 1122 (Lewinsky GJ 8/20/98). And contrary to the Committee Report's suggestion that Lewinsky's memory of these events has been "consistent and unequivocal" and she has "recited the same facts in February, July, and August," Committee Report at 69, Ms. Lewinsky herself acknowledged at her last grand jury appearance that her memory of the crucial conversation is less than crystal clear:

A JUROR: . . . Do you remember Betty Currie saying that the President had told her to call?

[MS. LEWINSKY]: Right now. I don't. I don't remember. . . .

App. at 1141 (Lewinsky GJ 8/20/98).

Moreover, Ms. Currie has repeatedly and unvaryingly stated that it was Ms. Lewinsky who contacted Ms. Currie about the gifts, not the other way around. A few examples include:

- "LEWINSKY called CURRIE and advised she had to return all gifts CLINTON had given LEWINSKY as there was talk going around about the gifts." Supp. at 531 (Currie FBI 302 1/24/98);
- "Monica said she was getting concerned, and she wanted to give me the stuff the President had given her -- or give me a box of stuff. It was a box of stuff." Supp. at 557 (Currie GJ 1/27/98);
- Q: . . . Just tell us for a moment how this issue first arose and what you did about it and what Ms. Lewinsky told you.

A: The best I remember it first arose with a conversation. I don't know if it was over the telephone or in person. I don't know. She asked me if I would pick up a box. She said Isikoff had been inquiring about gifts." Supp. at 582 (Currie GJ 5/6/98);

- "The best I remember she said that she wanted me to hold these gifts -- hold this -- she may have said gifts, I'm sure she said gifts, box of gifts -- I don't remember --because people were asking questions. And I said, 'Fine.'" Supp. at 581 (Currie GJ 5/6/98).
- "The best I remember is Monica calls me and asks me if she can give me some gifts, if I'd pick up some gifts for her." Supp. at 706 (Currie GJ 7/22/98).

The Committee Report attempts to portray Ms. Currie's memory as faulty on the key issue of whether Ms. Lewinsky initiated the gift retrieval by unfairly referencing Ms. Currie's answer to a completely different question. Ms. Currie was asked whether she had discussed with the President Ms. Lewinsky's "turning over to [her]" the gifts he had given her. Ms. Currie indicated that she could remember no such occasion. "If Monica said [Ms. Currie] talked to the President about it," she was then asked, "would that not be true?" Then, only on the limited question of whether Ms. Currie ever talked to the President about the gifts -- wholly separate from the issue of who made the initial contact -- did Ms. Currie courteously defer, "Then she may remember better than I. I don't remember." Supp. at 584 (Currie GJ 5/6/98). Ironically, it is the substance of this very allegation -- regarding conversations between Ms. Currie and the President -- that Ms. Lewinsky told the grand jury she could not recall. (In later testimony, referring to a conversation she had with the President on January 21, Ms. Currie testified that she was "sure" that she did not discuss the fact that she had a box of Ms. Lewinsky's belongings under her bed. Supp. at 705 (Currie GJ 7/22/98).)

To support its theory that Ms. Currie initiated a call to Ms. Lewinsky, the House Managers place great reliance on a cell phone record of Ms. Currie, calling it "key evidence that Ms. Currie's fuzzy recollection is wrong" and which "conclusively proves" that "the President

directed Ms. Currie to pick up the gifts.” House Br. at 33. There is record of a one-minute call on December 28, 1998 from Ms. Currie’s cell phone to Ms. Lewinsky’s home at 3:32 p.m. Even assuming Ms. Lewinsky is correct that Ms. Currie picked up the gifts on December 28, her own testimony refutes the possibility that the Managers’ mysterious 3:32 p.m. telephone call could have been the initial contact by Ms. Currie to retrieve the gifts. To the contrary, the timing and duration of the call strongly suggest just the opposite. It is undisputed that Ms. Lewinsky entered the White House on the morning of December 28 at 8:16 a.m. App. at 111 (White House entry records). While no exit time for Ms. Lewinsky was recorded because she inadvertently left her visitor badge in the White House, she has testified that the visit lasted around an hour. App. at 870-72 (Lewinsky GJ 8/6/98). Consistent with this timing, records also indicate that the President left the Oval Office at 9:52 a.m., thus placing Ms. Lewinsky’s exit around 9:30 to 9:45 a.m. App. at 111. Ms. Lewinsky has indicated on several occasions that her discussion with Betty Currie occurred just “several hours” after she left. App. at 875 (Lewinsky GJ 8/6/98); App. at 1395 (Lewinsky FBI 302 7/27/98). Ms. Lewinsky three times placed the timing of the actual gift exchange with Ms. Currie “at about 2:00 p.m.” App. at 1127 (Lewinsky GJ 8/20/98); App. at 1396 (Lewinsky FBI 302 7/27/98); App. at 1482 (Lewinsky FBI 302 8/1/98). Thus, in light of undisputed documentary evidence and Ms. Lewinsky’s own testimony, it becomes clear that the 3:32 p.m. telephone record relied upon by the Committee Report in fact is unlikely to reflect a call placed to initiate the pick-up.

Apart from this conspicuous timing defect, there is another, independent reason to conclude that the 3:32 p.m. telephone call could not have been the conversation Ms. Lewinsky describes. The 3:32 p.m. call is documented to have lasted no longer than one minute, and

because such calls are rounded up to the nearest minute, it quite conceivably could have been much shorter in duration. It is difficult to imagine that the conversation reflected in Ms. Lewinsky's statements could have taken place in less than one minute. Both Ms. Currie and Ms. Lewinsky have described the various matters that were discussed in their initial conversation: not only was this the first time the topic of returning gifts was discussed, which quite likely generated some discussion between the two, but they also had to discuss and arrange a convenient plan for Ms. Currie to make the pick-up.⁹⁹

What, then, to make of this call so heavily relied upon by the House Managers? The record is replete with references that Ms. Currie and Ms. Lewinsky communicated very frequently, especially during this December 1997-January 1998 time period. *See, e.g.*, Supp. at 554 (Currie GJ 1/27/98) (many calls around Christmas-time). They often called or paged each other to discuss a host of topics, including Ms. Lewinsky's pending job search, Ms. Currie's mother's illness, and her contacts with Mr. Jordan. There is simply no reason to believe this call was anything other than one of the many calls and exchanges of pages that these two shared during the period.

c. The Obstruction-by-Gift-Concealment Charge Is at Odds With the President's Actions

Ultimately, and irrespective of the absence of evidence implicating the President in Ms. Lewinsky's gift concealment, the charge fails because it is inconsistent with other events

⁹⁹ The OIC Referral, which took great pains to point out every allegedly incriminating piece of evidence, made no reference to this telephone record, perhaps because the OIC knew it tended not to corroborate Ms. Lewinsky's time line. In its place, the Referral rested its corroboration hopes in the following bizarre analysis: "More generally, the person making the extra effort (in this case, Ms. Currie) is ordinarily the person requesting the favor." Referral at 170. Wisely, the House Managers chose not to pursue this groundless speculation.

of the very same day. There is absolutely no dispute that the President gave Ms. Lewinsky numerous additional gifts during their December 28 meeting. It must therefore be assumed that on the very day the President and Ms. Lewinsky were conspiring to hide the gifts he had already given to her, the President added to the pile. No stretch of logic will support such an outlandish theory.

From the beginning, this inherent contradiction has puzzled investigators. If there were a plot to conceal these gifts, why did the President give Ms. Lewinsky several more gifts at the very moment the concealment plan was allegedly hatched? The House Managers OIC prosecutors, grand jurors, and even Ms. Lewinsky hopelessly searched for an answer to that essential question:

Q: Although, Ms. Lewinsky, I think what is sort of -- it seems a little odd and, I guess really the grand jurors wanted your impression of it, was on the same day that you're discussing basically getting the gifts to Betty to conceal them, he's giving you a new set of gifts.

A: You know, I have come recently to look at that as sort of a strange situation, I think, in the course of the past few weeks. . . .

App. at 887-88 (Lewinsky GJ 8/6/98) (emphasis added). See House Br. at 34.

The Committee Report fails to resolve this significant flaw in its theory.¹⁰⁰ The report admits that Ms. Lewinsky "can't answer" why the President would in one breath give her

¹⁰⁰ Incredibly, not only does the Committee Report fail to offer a sensible answer to this perplexity, but without any factual or logical support it accuses the President of lying to the grand jury when he testified that he was not particularly concerned about the gifts he had given Ms. Lewinsky and thus had no compunction about giving her additional gifts on December 28, Article I (4). For whatever reason, neither the Committee Report nor the OIC Referral acknowledges the most reasonable explanation for these events: as the President has testified repeatedly, he was not concerned about the gifts he had given Ms. Lewinsky:

- "I was never hung up about this gift issue. Maybe it's because I have a different

gifts and in the next hatch a plan to take them back. But it cites only to Ms. Lewinsky's understanding of the relationship's pattern of concealment and how she contemplated it must apply to the gifts. It creates the erroneous impression that the President gave Ms. Lewinsky instructions to conceal the gifts in the December 28 meeting by quoting her testimony that "from everything he said to me" she would conceal the gifts. But we know that Ms. Lewinsky has repeatedly testified that no such discussion ever occurred. Her reliance on "everything he said to me" must, therefore, reflect her own plan to implement discussions the two had had about concealing the relationship long before her role in the *Jones* litigation.

What this passage confirms is that Ms. Lewinsky had very much in her mind that she would do what she could to conceal the relationship -- a *modus operandi* she herself acknowledged well pre-dated the *Jones* litigation. That she took such steps does not mean that the President knew of or participated in them. Indeed, it appears that the entire gift-concealment plan arose not from any plan suggested by the President -- which the Committee Report so

experience. But, you know, the President gets hundreds of gifts a year, maybe more. I have always given a lot of gifts to people, especially if they give me gifts. And this was no big deal to me." App. at 495.

- "this gift business . . . didn't bother me." App. at 496.
- "I wasn't troubled by this gift issue." App. at 497.
- "I have always given a lot of people gifts. I have always been given gifts. I do not think there is anything improper about a man giving a woman a gift, or a woman giving a man a gift, that necessarily connotes an improper relationship. So, it didn't bother me." App. at 498.

desperately struggles to maintain -- but rather more innocently from the actions of a young woman taking steps she thought were best.¹⁰¹

In any event, the record evidence is abundantly clear that the President has not obstructed justice by any plan or scheme to conceal gifts he had given to Ms. Lewinsky, and logic and reason fully undercut any such theory.

4. **The President denies that he obstructed justice in connection with Monica Lewinsky's efforts to obtain a job in New York in an effort to "corruptly prevent" her "truthful testimony" in the Jones case**

Again, in the absence of specifics in Article II itself, we look to the Committee Report for guidance on the actual charges. The Committee Report would like to portray this claim in as sinister a light as possible, and it alleges that the President of the United States employed his close friend Vernon Jordan to get Monica Lewinsky a job in New York to influence her testimony or perhaps get her away from the *Jones* lawyers. To reach this conclusion, and without the benefit of a single piece of direct evidence to support the charge, it ignores the direct testimony of several witnesses, assigns diabolical purposes to a series of innocuous events, and then claims that "[i]t is logical to infer from this chain of events" that the job efforts "were motivated to influence the testimony of" Ms. Lewinsky. Committee Report at 71. Again, the evidence contradicts the inferences the Committee Report strives to draw. Ms. Lewinsky's New York job search began on her own initiative long before her involvement in the *Jones* case. By her own forceful testimony, her job search had no connection to the *Jones* case.

¹⁰¹ As the President has stated about this potentiality, "I didn't then, I don't now see this [the gifts] as a problem. And if she thought it was a problem, I think it -- it must have been from a, really, a misapprehension of the circumstances. I certainly never encouraged her not to, to comply lawfully with a subpoena." App. at 497-98 (emphasis added.)

Mr. Jordan agreed to help Ms. Lewinsky not at the direction of the President but upon the request of Betty Currie, Mr. Jordan's long-time friend. And bizarrely, the idea to involve Mr. Jordan (which arose well before Ms. Lewinsky became a possible *Jones* witness) came not from the President but apparently emanated from Ms. Tripp. In short, the facts directly frustrate the House Majority's theory.¹⁰²

a. The Complete Absence of Direct Evidence Supporting This Charge

It is hard to overstate the importance of the fact that -- by the House Managers', the Committee Report's and the OIC's own admission -- there is not one single piece of direct evidence to support this charge. Not one. Indeed, just the contrary is true. Both Ms. Lewinsky and Mr. Jordan have repeatedly testified that there was never an explicit or implicit agreement, suggestion, or implication that Ms. Lewinsky would be rewarded with a job for her silence or false testimony. One need look no further than their own testimony :

Lewinsky: "[N]o one ever asked me to lie and I was never promised a job for my silence."
App. at 1161 (Lewinsky GJ 8/20/98);

"There was no agreement with the President, JORDAN, or anyone else that LEWINSKY had to sign the Jones affidavit before getting a job in New York. LEWINSKY never demanded a job from Jordan in exchange for a favorable

¹⁰² This allegation has gone through several iterations. As initially referred to the House of Representatives, the charge was that the President "help[ed] Ms. Lewinsky obtain a job in New York at a time when she would have been a witness against him" in the *Jones* case. OIC Referral at 181. Faced with the significant evidence that Ms. Lewinsky's job efforts had originated long before she became involved in the *Jones* case and were in fact entirely unrelated to the *Jones* case, the Judiciary Committee Majority was forced to recraft this claim. Instead of implying a complete connection between the job search and the *Jones* litigation, the article now oddly charges that the President "intensified and succeeded in an effort to secure job assistance" for Ms. Lewinsky "at a time when the truthful testimony of [Ms. Lewinsky] would have been harmful to him," Article II (5) (emphasis added) -- thereby admitting that the initial effort was motivated by appropriate concerns.

affidavit. Neither the President nor JORDAN ever told LEWINSKY that she had to lie." App. at 1398 (Lewinsky FBI 302 7/27/98).

Jordan: "As far as I was concerned, [the job and the affidavit] were two very separate matters." Supp. at 1737 (Jordan GJ 3/5/98).

"Unequivocally, indubitably, no." -- in response to the question whether the job search and the affidavit were in any way connected. Supp. at 1827 (Jordan GJ 5/5/98).¹⁰³

This is the direct evidence. The House Managers' circumstantial "chain of events" case, House Br. at 39-41, cannot overcome the hurdle the direct evidence presents.

b. Background of Ms. Lewinsky's New York Job Search

By its terms, Article II (4) would have the Senate evaluate Ms. Lewinsky's job search by considering only the circumstances "[b]eginning on or about December 7, 1997." Article II (4). Although barely mentioned in the Committee Report's "explanation" of Article II (4), the significant events occurring before December 7, 1997 cannot simply be ignored because they are inconsistent with the Majority's theory. Without reciting every detail, the undisputed record establishes that the following facts occurred long before Ms. Lewinsky was involved in the *Jones* case:

First, Ms. Lewinsky had contemplated looking for a job in New York as early as July 1997. App. at 1414 (Lewinsky FBI 302 7/29/98) (July 3 letter "first time [Lewinsky] mentioned the possibility of moving to New York"); App. at 787-88 (on July 4, 1997, Ms.

¹⁰³ The only person who suggested any such *quid pro quo* was Ms. Tripp, who repeatedly urged Ms. Lewinsky to demand such linkage. App. at 1493 (Lewinsky FBI 302 8/2/98) ("TRIPP told LEWINSKY not to sign the affidavit until LEWINSKY had a job."). To appease Linda Tripp's repeated demands on this point, Ms. Lewinsky ultimately told Ms. Tripp that she had told Mr. Jordan she wouldn't sign the affidavit until she had a job. But as she later emphasized to the grand jury, "That was definitely a lie, based on something Linda had made me promise her on January 9th." App. at 1134 (Lewinsky GJ 8/20/98).

Lewinsky wrote the President a letter describing her interest in a job “in New York at the United Nations”); Committee Report at 10 (“Ms. Lewinsky had been searching for a highly paid job in New York since the previous July.”) She conveyed that prospect to a friend on September 2, 1997. App. at 2811 (Lewinsky e-mail).

Second, in early October, at the request of Ms. Currie, then-Deputy Chief of Staff John Podesta asked U.N. Ambassador Bill Richardson to consider Ms. Lewinsky for a position at the U.N. Supp. at 3404 (Richardson GJ 4/3/98). Ms. Currie testified that she was acting on her own in this effort. Supp. at 592 (Currie GJ 5/6/98).

Third, around October 6, Ms. Tripp told Ms. Lewinsky that an acquaintance in the White House reported that it was unlikely Ms. Lewinsky would ever be re-employed at the White House. After this disclosure, Ms. Lewinsky “was mostly resolved to look for a job in the private sector in New York.” App. at 1543-44 (Lewinsky FBI 302) 8/13/98; *see also* App. at 1460 (Lewinsky FBI 302 7/31/98) (remarks by the Linda Tripp acquaintance were the “straw that broke the camel’s back”).

Fourth, sometime prior to October 9, 1997, Ms. Tripp and Ms. Lewinsky discussed the prospect of enlisting Mr. Vernon Jordan to assist Ms. Lewinsky in obtaining a private sector job in New York. App. at 822-24 (Lewinsky GJ 8/6/98); *see also* App. at 1079 (Lewinsky GJ 8/20/98) (“I don’t remember . . . if [enlisting Jordan] was my idea or Linda’s idea. And I know that that came up in discussions with her, I believe, before I discussed it with the President”). On either October 9 or 11, Ms. Lewinsky conveyed to the President this idea of asking Mr. Jordan for assistance. *Id.*

Fifth, in mid-October, 1997, Ms. Lewinsky purchased a book on jobs in New York. App. at 1462 (Lewinsky FBI 302 7/31/98). Ms. Lewinsky completed and sent to Betty Currie at the White House a packet of jobs-related materials on October 15 or 16. Supp. at 735 (Lewinsky Tripp tape of 10/15/97 conversation).

Sixth, on October 31, 1997, Ms. Lewinsky interviewed for a position with Ambassador Bill Richardson at the United Nations in New York. Ambassador Richardson was "impressed" with Ms. Lewinsky and, on November 3, offered her a position, which she ultimately rejected. Supp. at 3411 (Richardson GJ 4/30/98); Supp. at 3731 (Sutphen GJ 5/27/98). Ms. Currie informed the President that Ms. Lewinsky had received a job offer at the U.N. Supp. at 592 (Currie GJ 5/6/98). Ambassador Richardson never spoke to the President or Mr. Jordan about Ms. Lewinsky, and he testified emphatically and repeatedly that no one pressured him to hire her. Supp. at 3422-23 (Richardson GJ 4/30/98); Supp. at 3418 (same); Supp. at 3429 (same).

Seventh, as of late October or November, Ms. Lewinsky had told Mr. Kenneth Bacon, her boss at the Pentagon, that she wanted to leave the Pentagon and move to New York. In a series of conversations, she enlisted his assistance in obtaining a private sector job in New York. Supp. at 11 (Kenneth Bacon FBI 302 2/26/98). In response, Mr. Bacon contacted Howard Paster, CEO of the public relations firm Hill & Knowlton about Ms. Lewinsky. *Id.*

Eighth, in November, Ms. Lewinsky gave notice to the Pentagon that she would be leaving her Pentagon job at year's end. Supp. at 116 (Clifford Bernal GJ 5/21/98).

Ninth, Ms. Lewinsky apparently had a preliminary meeting with Mr. Jordan on November 5, 1997 to discuss her job search. During this twenty-minute meeting, Ms. Lewinsky

and Mr. Jordan discussed a list of potential employers she had compiled. App. at 1464-65 (Lewinsky FBI 302 7/31/98). In that meeting, Ms. Lewinsky never informed Mr. Jordan of any time constraints on her need for job assistance. Supp. at 2647 (Lewinsky-Tripp Tape of 11/8/97 conversation). Mr. Jordan had to leave town the next day. App. at 1465 (Lewinsky FBI 302 Form 7/31/98). Ms. Lewinsky had a follow-up telephone conversation with Mr. Jordan around Thanksgiving wherein he advised her that he was "working on her job search" and instructed her to call him again "around the first week of December." App. at 1465 (Lewinsky FBI 302 7/31/98); *see also* App. at 825 (Lewinsky GJ 8/6/98) ("And so Betty arranged for me to speak with [Jordan] again and I spoke with him when I was in Los Angeles before -- right before Thanksgiving.")¹⁰⁴ Inexplicably, the Committee Report, the presentation by its chief counsel, and the Starr Referral all choose to ignore this key piece of testimony -- that contact resumed in early December because Ms. Lewinsky and Mr. Jordan agreed (in November) that it would. *See* Committee Report at 10 ("Ms. Lewinsky had no further contacts with Mr. Jordan at that time [early November to mid December]."); Schippers Dec. 10, 1998 Presentation at 38 ("Vernon Jordan, who, by the way, had done nothing from early November to mid-December."); Referral at 182 ("Ms. Lewinsky had no contact with . . . Mr. Jordan for another month [after November 5].").

In sum, the record is clear that Ms. Lewinsky decided on her own to seek a job in New York many months before her involvement in the *Jones* case. She had asked her Pentagon boss to help, as well as Ms. Currie, who arranged indirectly for Ms. Lewinsky to interview with Ambassador Richardson at the United Nations. Mr. Jordan became involved in the job search at

¹⁰⁴ Mr. Jordan was then out of the country from the day after Thanksgiving until December 4. Supp. at 1804 (Jordan GJ 5/5/98).

the request of Ms. Currie (apparently at the suggestion of Ms. Tripp) and, notwithstanding his travels in November, Supp. at 1811 (Jordan GJ 5/5/98), kept in contact with Ms. Lewinsky with plans to reconvene early in December.

c. The Committee Report's Circumstantial Case

Article II ignores this background and merely alleges that efforts to aid Ms. Lewinsky's job search "intensified and succeeded" in December 1997. While not adopted in the article, the House Brief, the Committee Report, and the accompanying final presentation by Majority Counsel Schippers offer some guidance as to the meaning of the actual charge. They cite three events -- Mr. Jordan's December 11 meeting with Ms. Lewinsky to discuss job prospects in New York, Ms. Lewinsky's execution of her *Jones* affidavit, and her receipt of a job -- in an effort to portray Ms. Lewinsky's job search as sinister. But the full record easily dispels any suggestion that there were any obstructive or improper acts.

1) Monica Lewinsky's December 11 meeting with Vernon Jordan

The House Managers and the Committee Report suggest that Mr. Jordan took action on Ms. Lewinsky's job search request only after, and because, Ms. Lewinsky's name appeared on the witness list on December 5 and only after, and because, Judge Wright ordered the President to answer certain questions about "other women" on December 11. *See* House Br. at 21. Consider the Committee Report portrayal:

"[T]he effort to obtain a job for Monica Lewinsky in New York intensified after the President learned, on December 6, 1997, that Monica Lewinsky was listed on the witness list for the case *Jones v. Clinton*.¹⁰⁵

¹⁰⁵ Committee Report at 70. That portrayal flatly contradicts the Committee Report's earlier statement that on December 6 "there was still no urgency to help Lewinsky." Committee Report at 10-11.

On December 7, 1997, President Clinton met with Vernon Jordan at the White House. Ms. Lewinsky met with Mr. Jordan on December 11 to discuss specific job contacts in New York. Mr. Jordan then made calls to certain New York companies on Ms. Lewinsky's behalf. Jordan telephoned President Clinton to keep him informed of the efforts to get Ms. Lewinsky a job." Committee Report at 70.

"Something happened that changed the priority assigned to the job search. On the morning of December 11, 1997, Judge Susan Webber Wright ordered President Clinton to provide information regarding any state or federal employee with whom he had, proposed, or sought sexual relations. To keep Ms. Lewinsky satisfied was now of critical importance." Committee Report at 11.

The unmistakable intention of this narrative is to suggest that, after the President learned Ms. Lewinsky's name was on the witness list on December 6, he (1) contacted Mr. Jordan on December 7 to engage his assistance for Ms. Lewinsky, and only then did Mr. Jordan agree to meet with Ms. Lewinsky, and further, that (2) Mr. Jordan met with Ms. Lewinsky on December 11 and took concrete steps to help Ms. Lewinsky only after and as a result of Judge Wright's December 11 order. Both suggestions are demonstrably false.

The President had nothing to do with arranging the December 11 meeting between Mr. Jordan and Ms. Lewinsky. As the record indicates, after receiving a request from Ms. Currie on December 5 that he meet with Ms. Lewinsky, and telling Ms. Currie to have Ms. Lewinsky call him, Ms. Lewinsky called Mr. Jordan on December 8. Supp. at 1705 (Jordan GJ 3/3/98). As noted above, that call had been presaged by a conversation between Mr. Jordan and Ms. Lewinsky around Thanksgiving in which Jordan told her "he was working on her job search" and asked her to contact him again "around the first week of December." App. at 1465 (Lewinsky FBI 302 7/31/98). In the December 8 call, the two arranged for Ms. Lewinsky to come to Mr. Jordan's office on December 11; on the same day, Ms. Lewinsky sent Mr. Jordan

via courier a copy of her resume. Supp. at 1705 (Jordan GJ 3/3/98). At the time of that contact, Mr. Jordan did not even know that Ms. Lewinsky knew President Clinton. *Id.*

In the intervening period before Ms. Lewinsky's December 11 meeting with Mr. Jordan, the President met with Mr. Jordan on December 7. As the Committee Report acknowledges, that meeting had nothing to do with Ms. Lewinsky. Committee Report at 11. Yet the House Managers' Brief, like the Committee Report before it, states that "the sudden interest [in helping Ms. Lewinsky obtain a job] was inspired by a court order entered on December 11, 1997" in the *Jones* case.¹⁰⁶ House Br. at 21. No evidence supports that supposition. The December 11 meeting had been scheduled on December 8. Neither the OIC Referral nor the Committee Report nor the Managers' Brief cites any evidence that the President or Mr. Jordan had any knowledge of the contents of that Order at the time of the December 11 meeting.

Mr. Jordan met with Ms. Lewinsky shortly after 1:00 p.m. on December 11. Supp. at 1863 (Akin Gump visitor log); Supp. at 1809 (Jordan GJ 5/5/98). In anticipation of that meeting, Mr. Jordan had made several calls to prospective employers about Ms. Lewinsky. Supp. at 1807-09 (Jordan GJ 5/5/98). Mr. Jordan spoke about Ms. Lewinsky with Mr. Peter Georgescu of Young & Rubicam at 9:45 a.m. that morning, and with Mr. Richard Halperin of Revlon around 1:00 p.m., immediately before meeting with Ms. Lewinsky. Supp. at 1807-09 (Jordan GJ 5/5/98). Again, there is no evidence that any of this occurred after Mr. Jordan learned of Judge Wright's order.

¹⁰⁶ That Order authorized Paula Jones' attorneys to obtain discovery relating to certain government employees "with whom the President had sexual relations, proposed sexual relations, or sought to have sexual relations." House Br. at 21.

Although the Committee Report claims that a heightened sense of urgency attached in December which "intensified" the job search efforts, it ignores the sworn testimony of Mr. Jordan denying any such intensification: "Oh no. I do not recall any heightened sense of urgency [in December]. What I do recall is that I dealt with it when I had time to do it." Supp. at 1811 (Jordan GJ 5/5/98).¹⁰⁷

The "heightened urgency" theory also is undermined by the simple fact that Mr. Jordan indisputably placed no pressure on any company to give Ms. Lewinsky a job and suggested no date by which Ms. Lewinsky had to be hired. The first person Mr. Jordan contacted, Mr. Georgescu of Young & Rubicam/Burson-Marsteller, told investigators that Mr. Jordan did not engage in a "sales pitch" for Lewinsky. Supp. at 1222 (Georgescu FBI 302 3/25/98). Mr. Georgescu told Mr. Jordan that the company "would take a look at [Ms. Lewinsky] in the usual way," Supp. at 1219 (Georgescu FBI 302 1/29/98), and that once the initial interview was set up, Ms. Lewinsky would be "on [her] own from that point." Supp. at 1222 (Georgescu FBI 302 3/25/98). The executive who interviewed Ms. Lewinsky at Burson-Marsteller stated that Ms. Lewinsky's recruitment process went "by the book" and, "while somewhat accelerated," the process "went through the normal steps." Supp. at 111 (Berk FBI 302 3/31/98).

At American Express, Mr. Jordan contacted Ms. Ursula Fairbairn, who stated that Mr. Jordan exerted "no . . . pressure" to hire Lewinsky. Supp. at 1087 (Fairbairn FBI 302 2/4/98). Indeed, she considered it "not unusual for board members" like Mr. Jordan to recommend talented people for employment and noted that Mr. Jordan had recently

¹⁰⁷ Mr. Jordan explained that not much activity occurred in November because "I was traveling." Supp. at 1811 (Jordan GJ 9/5/98).

recommended another person just a few months earlier. *Id.* The person who interviewed Ms. Lewinsky stated that he felt "absolutely no pressure" to hire her and indeed told her she did not have the qualifications necessary for the position. Supp. at 3521 (Schick FBI 302 1/29/98).

Perhaps most telling of the absence of pressure applied by Mr. Jordan is the fact that neither Young & Rubicam/Burson-Marsteller or American Express offered Ms. Lewinsky a job.

Similarly, at MacAndrews & Forbes/Revlon, where Ms. Lewinsky ultimately was offered a job (see below), Mr. Jordan initially contacted Mr. Halperin, who has stated that it is not unusual for Mr. Jordan to make an employment recommendation. Supp. at 1281 (Halperin FBI 302 1/26/98). Moreover, he emphasized that Mr. Jordan did not "ask [him] to work on any particular timetable," Supp. at 1294 (Halperin GJ 4/23/98), and that "there was no implied time constraint or requirement for fast action." Supp. at 1286 (Halperin FBI 3/27/98.)

2) The January job interviews and the Revlon employment offer

The Committee Report attempts to conflate separate and unrelated acts -- the signing of the affidavit and the Revlon job offer -- to sustain its otherwise unsustainable obstruction theory. The Committee Report's description of these events is deftly misleading:

"The next day, January 7, Monica Lewinsky signed the false affidavit. She showed the executed copy to Mr. Jordan that same day. She did this so that Mr. Jordan could report to President Clinton that it had been signed and another mission had been accomplished.

On January 8, Ms. Lewinsky had an interview arranged by Mr. Jordan with MacAndrews & Forbes in New York. The interview went poorly. Afterwards, Ms. Lewinsky called Mr. Jordan and informed him. Mr. Jordan, who had done nothing from early November to mid-December, then called the chief executive officer of MacAndrews & Forbes, Ron Perelman, to "make things happen, if they could happen." Mr. Jordan called Ms. Lewinsky back and told her not to worry. That evening,

MacAndrews & Forbes called Ms. Lewinsky and told her that she would be given more interviews the next morning.

The next morning, Ms. Lewinsky received her reward for signing the false affidavit. After a series of interviews with MacAndrews & Forbes personnel, she was informally offered a job. Committee Report at 18 (citations omitted).

By this portrayal, the Committee Report suggests two conclusions: first, that Ms. Lewinsky was "reward[ed]" with a job for her signing of the affidavit; second, that the only reason Ms. Lewinsky was given a second interview and ultimately hired at Revlon was Mr. Jordan's intervention with Mr. Perelman. Once again, both conclusions are demonstrably false.

Mr. Jordan and Ms. Lewinsky have testified under oath that there was no causal connection between the job search and the affidavit. The only person to draw (or, actually, recommend) any such linkage was Ms. Tripp. The factual record easily debunks the second insinuation -- that Ms. Lewinsky was hired as a direct result of Mr. Jordan's call to Mr. Perelman. One fact is virtually dispositive: the Revlon executive who scheduled Ms. Lewinsky's January 9 interview and decided to hire her that same day never even knew about Mr. Jordan's call to Mr. Perelman, or any interest Mr. Perelman might have in Ms. Lewinsky, and thus could not have been acting in furtherance of such a plan.

Ms. Lewinsky initially interviewed with Mr. Halperin of MacAndrews & Forbes (Revlon's parent company) on December 18, 1997. (Mr. Jordan had spoken with Mr. Halperin on December 11.) Prior to interviewing Ms. Lewinsky, Mr. Halperin forwarded a copy of her resume to Mr. Jaymie Durnan, also of MacAndrews & Forbes, for his consideration. Supp. at 1286-87 (Halperin FBI 302 3/27/98). Following his interview of Ms. Lewinsky, Mr. Halperin thought that she would likely be "shipped to Revlon" for consideration. *Id.*

Mr. Durnan received Ms. Lewinsky's resume from Mr. Halperin in mid-December and, after reviewing it, decided to interview Ms. Lewinsky after the first of the year. (He was going on vacation the last two weeks of December). Supp. at 1053 (Durnan FBI 302 3/27/98). When he returned from vacation, his assistant scheduled an interview with Ms. Lewinsky for January 7, 1998, but, because of scheduling problems, he rescheduled the interview for the next day, January 8, 1998. Supp. at 1049 (Durnan FBI 302 1/26/98). Mr. Durnan's decision to interview Ms. Lewinsky was made independently of the decision by Mr. Halperin to interview her. Indeed, only when Mr. Durnan interviewed Ms. Lewinsky in January did he discover that she had had a December interview with Mr. Halperin. *Id.*

It was this interview with Mr. Durnan that Ms. Lewinsky later described as having gone poorly in her view. App. at 926 (Lewinsky GJ 8/6/98). The House Managers ("[t]he interview went poorly," House Br. at 38), the Committee Report ("The interview went poorly", *id.* at 21), and the OIC Referral ("The interview went poorly," *id.* at 184) all emphasize only Ms. Lewinsky's impression of the job interview -- for obvious reasons: it tends to heighten the supposed relevance of the Jordan call to Mr. Perelman. In other words, under this theory, Ms. Lewinsky had no prospect of a job at MacAndrews & Forbes/Revlon until Mr. Jordan resurrected her chances with Mr. Perelman.

Unfortunately, like so much other "evidence" in the obstruction case, the facts do not bear out this sinister theory. Mr. Durnan had no similar impression that his interview with Ms. Lewinsky had gone "poorly." In fact, just the opposite was true: he was "impressed" with Ms. Lewinsky and thought that she would "fit in" with MacAndrews & Forbes but "there was nothing available at that time which suited her interests." Supp. at 1054 (Durnan FBI 302

3/27/98). Mr. Durnan therefore decided to forward Ms. Lewinsky's resume to Ms. Allyn Seidman of Revlon. After the interview, he called Ms. Seidman and left her a voicemail message about his interview with Ms. Lewinsky and explained that, while there was no current opening at MacAndrews & Forbes, "perhaps there was something available at Revlon." *Id.*

In the meantime, Mr. Jordan had called Mr. Perelman about Ms. Lewinsky. Mr. Perelman described this conversation as "very low key and casual." Supp. at 3273 (Perelman FBI 302 1/26/98). Mr. Jordan "made no specific requests and did not request" him "to intervene"; nonetheless, Mr. Perelman agreed to "look into it." *Id.* Later that day, Mr. Durnan spoke to Mr. Perelman, who mentioned that he had received a call from Mr. Jordan about a job candidate. Mr. Perelman told Mr. Durnan "let's see what we can do," Supp. at 3276 (Perelman FBI 302 3/27/98), but Mr. Durnan never concluded that hiring Ms. Lewinsky was "mandatory." Supp. at 1055 (Durnan FBI 302 3/27/98). Mr. Perelman later called Mr. Jordan and said they would do what they could; Mr. Jordan expressed no urgency to Mr. Perelman. Supp. at 3276 (Perelman FBI 302 3/27/98).

By the time Mr. Durnan had discussed Ms. Lewinsky with Mr. Perelman, he had already forwarded her resume to Ms. Seidman at Revlon. Supp. at 1049-50 (Durnan FBI 302 1/26/98). After speaking with Mr. Perelman, Mr. Durnan spoke with Ms. Seidman, following up on the voicemail message he had left earlier that day. Supp. at 1055 (Durnan FBI 302 3/27/98). Upon speaking to Ms. Seidman about Ms. Lewinsky, however, Mr. Durnan did not tell Ms. Seidman that CEO Perelman has expressed any interest in Ms. Lewinsky. *Id.* Rather, he simply said that if she liked Ms. Lewinsky, she should hire her. Supp. at 1050 (Durnan FBI 302 1/26/98).

For her part, Ms. Seidman has testified that she had no idea that Mr. Perelman had expressed interest in Ms. Lewinsky:

Q: Did [Mr. Durnan] indicate to you that he had spoken to anyone else within MacAndrews or Revlon about Monica Lewinsky?

A: Not that I recall, no.

Q: Do you have any knowledge as to whether or not Mr. Perelman spoke with anyone either on the MacAndrews & Forbes side or the Revlon side about Monica Lewinsky?

A: No.

Supp. at 3642 (Seidman Depo. 4/23/98). Rather, Ms. Seidman's consideration of Ms. Lewinsky proceeded on the merits. Indeed, as a result of the interview, Ms. Seidman concluded that Ms. Lewinsky was "bright, articulate and polished," Supp. at 3635 (Seidman FBI 302 1/26/98), and "a talented, enthusiastic, bright young woman" who would be a "good fit in [her] department." Supp. at 3643 (Seidman Depo. 4/23/98). She decided after the interview to hire Ms. Lewinsky, and thereafter called Mr. Durnan "and told him I thought she was great." *Id.*

In sum, Ms. Seidman made the decision to grant an interview and hire Ms. Lewinsky on the merits. She did not even know that Mr. Perelman had expressed any interest in Ms. Lewinsky or that Mr. Jordan had spoken to Mr. Perelman the day before. As amply demonstrated, the House Managers' Jordan-Perelman intervention theory just doesn't hold water.

d. Conclusion

From the preceding discussion of the factual record, two conclusions are inescapable. First, there is simply no direct evidence to support the job-for-silence obstruction theory. From her initial proffer to the last minutes of her grand jury appearance, the testimony of Ms. Lewinsky has been clear and consistent: she was never asked or encouraged to lie or

promised a job for her silence or for a favorable affidavit. Mr. Jordan has been equally unequivocal on this point. Second, the “chain of events” circumstantial case upon which this obstruction allegation must rest falls apart after inspection of the full evidentiary record. Ms. Lewinsky’s job search began on her own volition and long before she was ever a witness in the *Jones* case. Mr. Jordan’s assistance originated with a request from Ms. Currie, which had no connection to events in the *Jones* litigation. No pressure was applied to anyone at any time. And Ms. Lewinsky’s ultimate hiring had absolutely no connection to her signing of the affidavit in the *Jones* case. Viewed on this unambiguous record, the job-search allegations are plainly unsupportable.

5. The President denies that he “corruptly allowed his attorney to make false and misleading statements to a Federal judge” concerning Monica Lewinsky’s affidavit

Article II (5) charges that the President engaged in an obstruction of justice because he “did not say anything” during his *Jones* deposition when his attorney cited the Lewinsky affidavit to Judge Wright and stated that “there is no sex of any kind in any manner, shape, or form.” Committee Report at 72. The rationale underlying this charge of obstruction of justice hinges on an odd combination of a bizarrely heightened legal obligation, a disregard of the actual record testimony, and a good dose of amateur psychology. This claim is factually and legally baseless.

The law, of course, imposes no obligation on a client to monitor every statement and representation made by his or her lawyer. Particularly in the confines of an ongoing civil deposition, where clients are routinely counseled to focus on the questions posed of them and their responses and ignore all distractions, it is totally inappropriate to try to remove a President

from office because of a statement by his attorney. Indeed, the President forcefully explained to the grand jury that he was not focusing on the exchange between the lawyers but instead concentrating on his own testimony:

- “I’m not even sure I paid much attention to what he was saying. I was thinking, I was ready to get on with my testimony here and they were having these constant discussions all through the deposition.” App. at 476;
- “I was not paying a great deal of attention to this exchange. I was focusing on my own testimony.” App. at 510;
- “I’m quite sure that I didn’t follow all the interchanges between the lawyers all that carefully.” App. at 510;
- “I am not even sure that when Mr. Bennett made that statement that I was concentrating on the exact words he used.” App. at 511;
- “When I was in there, I didn’t think about my lawyers. I was, frankly, thinking about myself and my testimony and trying to answer the questions.” App. at 512;
- “I didn’t pay any attention to this colloquy that went on. I was waiting for my instructions as a witness to go forward. I was worried about my own testimony.” App. at 513.

The Committee Report ignores the President’s repeated and consistent description of his state of mind during the deposition exchange. Instead, the Committee Report and majority counsel’s final presentation undertake a novel exercise in video psychology, claiming that by studying the President’s facial expressions and by noting that he was “looking in Mr. Bennett’s direction” during the exchange, it necessarily follows that the President was in fact listening to and concentrating on every single word uttered by his attorney¹⁰⁸ and knowingly made a decision not to correct his attorney.

¹⁰⁸ It is upon this same fanciful methodology that the Committee Report premises the allegation of Article I (3) that the President lied to the grand jury in providing these responses. Citing the President’s oft-criticized response about Mr. Bennett’s use of the present tense in his

The futility of such an exercise is manifest. It is especially unsettling when set against the President's adamant denials that he harbored any contemporaneous or meaningful realization of his attorney's colloquy with the Judge. The theory is factually flimsy, legally unfounded, and should be rejected.

6. **The President denies that he obstructed justice by relating "false and misleading statements" to "a potential witness," Betty Currie, "in order to corruptly influence [her] testimony"**

There is no dispute that the President met with his secretary, Ms. Currie, on the day after his *Jones* deposition and discussed questions he had been asked about Ms. Lewinsky. The Managers cast this conversation in the most sinister light possible and alleges that the President attempted to influence the testimony of a "witness" by pressuring Ms. Currie to agree with an inaccurate version of facts about Ms. Lewinsky. The Managers claim that "the President essentially admitted to making these statements when he knew they were not true." House Br. at 47. That is totally false. The President admitted nothing of the sort and the Managers cite nothing in support. The President has adamantly denied that he had any intention to influence Ms. Currie's recollection of events or her testimony in any manner. The absence of any such intention is further fortified by the undisputed factual record establishing that to the President's knowledge, Ms. Currie was neither an actual nor contemplated witness in the *Jones* litigation at

statement "there is no sex of any kind" ("It depends on what the meaning of the word 'is' is." App. at 510), the Committee Report claims that such parsing contradicts the President's claim that he was not paying close attention to the exchange. But contrary to the Committee Report's suggestion, the President's response to this question did not purport to describe the President's contemporaneous thinking at the deposition, but rather only in retrospect whether he agreed with the questioner that it was "an utterly false statement." *Id.* The President later emphasized that he "wasn't trying to give . . . a cute answer" in his earlier explanation, but rather only that the average person thinking in the present tense would likely consider that Mr. Bennett's statement was accurate since the relationship had ended long ago. App. at 513..

the time of the conversation. And critically, Ms. Currie testified that, during the conversation, she did not perceive any pressure "whatsoever" to agree with any statement made by the President.

The President's actions could not as a matter of law support this allegation. To obstruct a proceeding or tamper with a witness, there must be both a known proceeding and a known witness. In the proceeding that the President certainly knew about -- the *Jones* case -- Ms. Currie was neither an actual nor prospective witness. As for the only proceeding in which Ms. Currie ultimately became a witness -- the OIC investigation -- no one asserts the President could have known it existed at that time.

At the time of the January 18 conversation,¹⁰⁹ Ms. Currie was not a witness in the *Jones* case, as even Mr. Starr acknowledged: "The evidence is not that she was on the witness list, and we have never said that she was." Transcript of November 19, 1998 Testimony at 192.

Nor was there any reason to suspect Ms. Currie would play any role in the *Jones* case. The discovery period was, at the time of this conversation, in its final days, and a deposition of Ms. Currie scheduled and completed within that deadline would have been highly unlikely.

Just as the President could not have intended to influence the testimony of "witness" Betty Currie because she was neither an actual nor a prospective witness, so too is it equally clear that the President never pressured Ms. Currie to alter her recollection. Such lack of real or perceived pressure also fatally undercuts this charge. Despite the prosecutor's best efforts

¹⁰⁹ Ms. Currie remembers a second conversation similar in substance a few days after the January 18 discussion, but still in advance of the public disclosure of this matter on January 21, 1998. Supp. at 561 (Currie GJ 1/27/98).

to coax Ms. Currie into saying she was pressured to agree with the President's statements, Ms. Currie adamantly denied any such pressure. As she testified:

Q: Now, back again to the four statements that you testified the President made to you that were presented as statements, did you feel pressured when he told you those statements?

A: None whatsoever.

Q: What did you think, or what was going through your mind about what he was doing?

A: At the time I felt that he was -- I want to use the word shocked or surprised that this was an issue, and he was just talking.

* * *

Q: That was your impression, that he wanted you to say -- because he would end each of the statements with "Right?", with a question.

A: I do not remember that he wanted me to say "Right." He would say "Right" and I could have said, "Wrong."

Q: But he would end each of those questions with a "Right?" and you could either say whether it was true or not true?

A: Correct.

Q: Did you feel any pressure to agree with your boss?

A: None.

Supp. at 668 (Currie GJ 7/22/98). Ms. Currie explained that she felt no pressure because she basically agreed with the President's statements:

Q: You testified with respect to the statements as the President made them, and, in particular, the four statements that we've already discussed. You felt at the time that they were technically accurate? Is that a fair assessment of your testimony?

A: That's a fair assessment.

Q: But you suggested that at the time. Have you changed your opinion about it in retrospect?

A: I have not changed my opinion, no.

Supp. at 667 (Currie GJ 7/22/98); *see also* Supp. at 534 (Currie FBI 302 1/24/98) ("Currie advised that she responded "right" to each of the statements because as far as she knew, the statements were basically right."); Supp. at 665 (Currie GJ 7/22/98) ("I said 'Right' to him because I thought they were correct, 'Right, you were never really alone with Monica, right'").

What, then, to make of this conversation if there was no effort to influence Ms. Currie's testimony? Well, to understand fully the dynamic, one must remove the memory of all that has transpired since January 21 and place oneself in the President's position after the *Jones* deposition. The President had just faced unexpectedly detailed questions about Ms. Lewinsky. The questions addressed, at times, minute details and at other times contained bizarre inaccuracies about the relationship. As the President candidly admitted in his grand jury testimony, he had long thought the day would come when his relationship with Ms. Lewinsky would become public:

"I formed an opinion early in 1996, once I got into this unfortunate and wrong conduct, that when it stopped, which I knew I'd have to do and which I should have done long before I did, that she would talk about it. Not because Monica Lewinsky is a bad person. She's basically a good girl. She's a good young woman with a good heart and a good mind. . . . But I knew that the minute there was no longer any contact, she would talk about this. She would have to. She couldn't help it. It was, it was part of her psyche.

App. at 575-76 (emphasis added). Now, with the questioning about Ms. Lewinsky in the *Jones* case and the publication of the first internet report article about Ms. Lewinsky, the President knew that a media storm was about to erupt. And erupt it did.

So it was hardly surprising that the President reached out to Ms. Currie at this time. He was trying to gather all available information and assess the political and personal consequences that this revelation would soon have. Though he did not confide fully in Ms. Currie, he knew Ms. Currie was Ms. Lewinsky's main contact and thus could have additional relevant information to help him assess and respond to the impending media scrutiny. As the President testified:

I do not remember how many times I talked to Betty Currie or when. I don't. I can't possibly remember that. I do remember, when I first heard about this story breaking, trying to ascertain what the facts were, trying to ascertain what Betty's perception was. I remember that I was highly agitated, understandably, I think.

App. at 593. And further, "[W]hat I was trying to determine was whether my recollection was right and that she was always in the office complex when Monica was there. . . . I thought what would happen is that it would break in the press, and I was trying to get the facts down." App. at 507-08 (emphasis added). As the President concluded: "I was not trying to get Betty Currie to say something that was untruthful. I was trying to get as much information as quickly as I could." App. at 508.

Ms. Currie's grand jury testimony confirms the President's "agitated" state of mind and information-gathering purpose for the discussion. She testified that the President appeared, in her words, to be "shocked or surprised that this was an issue, and he was just talking." Supp. at 668 (Currie GJ 7/22/98). She described the President's remarks as "both statements and questions at the same time." Supp. at 534 (Currie FBI 302 1/24/98).

Finally, the inference that the President intended to influence Ms. Currie's testimony before she ever became a witness is firmly undercut by the advice the President gave to her when she ultimately did become a witness in the OIC investigation:

And then I remember when I knew she was going to have to testify to the grand jury, and I, I felt terrible because she had been through this loss of her sister, this horrible accident Christmas that killed her brother, and her mother was in the hospital. I was trying to do -- to make her understand that I didn't want her to, to be untruthful to the grand jury. And if her memory was different than mine, it was fine, just go in there and tell them what she thought. So, that's all I remember.

App. at 593; *see also* App. at 508 ("I think Ms. Currie would also testify that I explicitly told her, once I realized you were involved in the Jones case -- you, the Office of Independent Counsel -- and that she might have to be called as a witness, that she should just go in there and tell the truth, tell what she knew, and be perfectly truthful.").¹¹⁰

In sum, neither the testimony of Ms. Currie nor that of the President -- the only two participants in this conversation -- supports the inference that the conversation had an insidious purpose. The undisputed evidence shows that Ms. Currie was neither an actual nor contemplated witness in the *Jones* case. And when Ms. Currie did ultimately become a witness in the Starr investigation, the President told her to tell the truth, which she did.

7. The President denies that he obstructed justice when he relayed allegedly "false and misleading statements" to his aides

This final allegation of Article II should be rejected out of hand. The President has admitted misleading his family, his staff, and the Nation about his relationship with Ms. Lewinsky, and he has expressed his profound regret for such conduct. But this Article asserts that the President should be impeached and removed from office because he failed to be candid with his friends and aides about the nature of his relationship with Ms. Lewinsky. These

¹¹⁰ Only groundless speculation and unfounded inferences support the Committee Report's mirror allegation of Article I (4) that the President lied to the grand jury when he described his motivation in discussing these matters with Ms. Currie. That allegation should be rejected for the same reasons discussed more fully in the text of this section.

allegedly impeachable denials took place in the immediate aftermath of the Lewinsky publicity -- at the very time the President was denying any improper relationship with Ms. Lewinsky in nearly identical terms on national television. Having made this announcement to the whole country on television, it is simply absurd to believe that he was somehow attempting corruptly to influence the testimony of aides when he told them virtually the same thing at the same time.¹¹¹ Rather, the evidence demonstrates that the President spoke with these individuals regarding the allegations because of the longstanding professional and personal relationships he shared with them and the corresponding responsibility he felt to address their concerns once the allegations were aired. The Managers point to no evidence -- for there is none -- that the President spoke to these individuals for any other reason, and certainly not that he spoke with them intending to obstruct any proceeding.¹¹² They simply assert that since he knew there was an investigation, his intent had to be that they relate his remarks to the investigators and grand jurors. House Br. at 80.

However, there is no allegation that the President attempted to influence these aides' testimony about their own personal knowledge or observations. Nor is there any evidence that the President knew any of these aides would ultimately be witnesses in the grand jury when he spoke with them. None was under subpoena at the time the denials took place and none had any independent knowledge of any sexual activity between the President and Ms. Lewinsky.

¹¹¹ As the Supreme Court has held, to constitute obstruction of justice such actions must be taken "with an intent to influence judicial or grand jury proceedings." *United States v. Aguilar*, 515 U.S. 592, 599 (1995).

¹¹² The Committee Report's allegation under Article I (4) that the President committed perjury before the grand jury when, in the course of admitting that he misled his close aides, he stated that he endeavored to say to his aides "things that were true," App. at 557-60, without disclosing the full nature of the relationship is simply bizarre.

Indeed, the only evidence these witnesses could offer on this score was the hearsay repetition of the same public denials that the members of the grand jury likely heard on their home television sets. Under the strained theory of this article, every person who heard the President's public denial could have been called to the grand jury to create still additional obstructions of justice.

To bolster this otherwise unsupportable charge, the Managers point to an excerpt of the President's testimony wherein he acknowledged that, to the extent he shared with anyone any details of the facts of his relationship with Ms. Lewinsky, they could conceivably be called before the grand jury -- which for the sake of his friends the President wanted to avoid:

"I think I was quite careful what I said after [January 21]. I may have said something to all of these people to that effect [denying an improper relationship], but I'll also -- whenever anybody asked me any details, I said, look, I don't want you to be a witness or I turn you into a witness or give you information that could get you in trouble. I just wouldn't talk. I, by and large, didn't talk to people about this."

App. at 647. The point was not that the President believed these people would be witnesses and so decided to mislead them, but rather that he decided to provide as little information as possible (consistent with his perceived obligation to address their legitimate concerns) in order to keep them from becoming witnesses solely because of what he told them.

In conclusion, this Article fails as a matter of law and as a matter of common sense. It should be soundly rejected.

VI. THE STRUCTURAL DEFICIENCIES OF THE ARTICLES PRECLUDE A CONSTITUTIONALLY SOUND VOTE

The Constitution prescribes a strict and exacting standard for the removal of a popularly elected President. Because each of the two articles charges multiple unspecified wrongs, each is unconstitutionally flawed in two independent respects.

First, by charging multiple wrongs in one article, the House of Representatives has made it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of two-thirds of the members. Since Senate Rules require that an entire article be voted as a unit, sixty-seven Senators could conceivably vote to convict while in wide disagreement as to the alleged wrong committed -- for example, they could completely disagree on what statement they believe is false -- in direct violation of the Constitutional requirements of "Concurrence" and due process.

Second, by charging perjury without identifying a single allegedly perjurious statement, and charging obstruction of justice without identifying a single allegedly obstructive action by the President, the House of Representatives has failed to inform the Senate either of the statements it agreed were perjurious (if it agreed), or of the actual conduct by the President that it agreed constituted obstruction of justice (again, if it agreed). The result is that the President does not have the most basic notice of the charges against him required by due process and fundamental fairness. He is not in a position to defend against anything other than a moving target. The guesswork involved even in identifying the charges to be addressed in this Trial Memorandum highlights just how flawed the articles are.¹¹³

¹¹³ The House Managers cannot constitutionally unbundle the charges in the articles or provide the missing specifics. This is because the Constitution provides that only the House of Representatives can amend articles of impeachment, and judicial precedent demonstrates that unduly vague indictments cannot be cured by a prosecutor providing a bill of particulars. Only the charging body -- here, the House -- can particularize an impermissibly vague charge.

Indeed, Senate precedent confirms that the entire House must grant particulars when articles of impeachment are not sufficiently specific for a fair trial. During the 1933 impeachment trial of Judge Harold Louderback, counsel for the Judge filed a motion to make the original Article V, the omnibus or "catchall" article, more definite. 77 Cong. Rec. 1852, 1854 (1933). The House Managers unanimously consented to the motion, which they considered to be akin to a motion for a bill of particulars, and the full House amended Article V to provide the

The result is a pair of articles whose structure does not permit a constitutionally sound vote to convict. If they were counts in an indictment, these articles would not survive a motion to dismiss. Under the unique circumstances of an impeachment trial, they should fail.

requested specifics. *Id.* Thereafter, the Clerk of the House informed the Senate that the House had adopted an amendment to Article V. *Id.* Judge Louderback was then tried on the amended article. Judge Louderback was subsequently acquitted on all five articles. Impeachment of Richard M. Nixon, President of the United States, Report by Staff of the Impeachment Inquiry, House Comm. on the Judiciary, 93d Cong., 2d Sess., Appendix B at 55 (Feb. 1974).

The power to define and approve articles of impeachment is vested by the Constitution exclusively in the House of Representatives. U.S. Const. Art I, § 2, cl. 5. It follows that any alteration of an Article of Impeachment can be performed only by the House. The House cannot delegate (and has not delegated) to the Managers the authority to amend or alter the Articles, and Senate precedent demonstrates that only the House (not the Managers unilaterally) can effect an amendment to articles of impeachment.

Case law is consistent with this precedent. When indictments are unconstitutionally vague, they cannot be cured by a prosecutor's provision of a bill of particulars, because only the charging body can elaborate upon vague charges. As the Supreme Court noted in *Russell v. United States*, 369 U.S. 749, 771 (1962):

It is argued that any deficiency in the indictments in these cases could have been cured by bills of particulars. But it is a settled rule that a bill of particulars cannot save an invalid indictment . . . To allow the prosecutor, or the court, to make a subsequent guess as to what was in the minds of the grand jury at the time they returned the indictment would deprive the defendant of a basic protection which the guaranty of the intervention of a grand jury was designed to secure. For a defendant could then be convicted on the basis of facts not found by, and perhaps not even presented to, the grand jury which indicted him. This underlying principle is reflected by the settled rule in the federal courts that an indictment may not be amended except by resubmission to the grand jury . . .

See also Stirone v. United States, 361 U.S. 212, 216 (1960) quoting *Ex Parte Bain*, 121 U.S. 1 (1887) ("If it lies within the province of a court to change the charging part of an indictment to suit its own notions of what it ought to have been or what the grand jury would probably have made it if their attention had been called to suggested changes, the great importance which the common law attaches to an indictment by a grand jury . . . may be frittered away until its value is almost destroyed.").

A. The Articles Are Both Unfairly Complex and Lacking in Specificity

A cursory review of the articles demonstrates that they each allege multiple and unspecified acts of wrongdoing.

1. The Structure of Article I

Article I accuses the President of numerous different wrongful actions. The introductory paragraph charges the President with (i) violating his constitutional oath faithfully to execute his office and defend the Constitution; (ii) violating his constitutional duty to take care that the laws be faithfully executed; (iii) willfully corrupting and manipulating the judicial process; and (iv) impeding the administration of justice.

The second paragraph charges the President with (a) perjurious, (b) false, and (c) misleading testimony to the grand jury concerning “one or more” of four different subject areas:

- (1) the nature and details of his relationship with a subordinate government employee;
- (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him;
- (3) prior false and misleading statements he allowed his attorney to make to a federal judge in that action;
- (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

The third paragraph alleges that, as a consequence of the foregoing, the President has, to the manifest injury of the people of the United States:

- undermined the integrity of his office;
- brought disrepute on the Presidency;
- betrayed his trust as President; and

- acted in a manner subversive of the rule of law and justice.

It is imperative to note that although Article I alleges “perjurious, false and misleading” testimony concerning “one or more” of four general subject areas, it does not identify the particular sworn statements by the President that were allegedly “perjurious,” (and therefore potentially illegal), or “false” or “misleading” (and therefore not unlawful). In fact, contrary to the most basic rules of fairness and due process, Article I does not identify a single specific statement that is at issue.

In sum, Article I appears to charge the President with four general forms of wrongdoing (violations of two oaths, manipulation of legal process, impeding justice), involving three (perjurious, false, misleading) distinct types of statements, concerning different subjects (relationship to Ms. Lewinsky, prior deposition testimony, prior statements of his attorney, obstruction of justice),¹¹⁴ resulting in four species of harms either to the Presidency (undermining its integrity, bringing it into disrepute) or to the people (acting in a manner subversive of the rule of law and to the manifest injury of the people). And it alleges all of this without identifying a single, specific perjurious, false or misleading statement.

Absent a clear statement of which statements are alleged to have been perjurious, and which specific acts are alleged to have been undertaken with the purpose of obstructing the administration of justice, it is impossible to prepare a defense. It is a fundamental tenet of our jurisprudence that an accused must be afforded notice of the specific charges against which he must defend. Neither the Referral of the Office of the Independent Counsel, nor the Committee

¹¹⁴ It appears that each of these topic areas includes various, unspecified allegedly perjurious, false and misleading statements.

Report of the Judiciary Committee, nor the House Managers' Trial Memorandum was adopted by the House, and none of them can provide the necessary particulars. It is impossible to know whether the different statements and acts charged in the Referral, or the Report, or the Trial Memorandum, or all, or none, are what the House had in mind when it passed the Articles.

2. The Structure of Article II

Article II accuses the President of a variety of wrongful acts. The introductory paragraph charges the President with (i) violating his constitutional oath faithfully to execute his office and defend the Constitution and (ii) violating his constitutional duty to take care that the laws be faithfully executed by (iii) preventing, obstructing and impeding the administration of justice by engaging (personally and through subordinates and agents) in a scheme designed to delay impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action.

The second paragraph specifies the various ways in which the violations in the first paragraph are said to have occurred. It states that the harm was effectuated by "means" that are not expressly defined or delimited, but rather are said to include "one or more" of seven "acts" attributed to the President:

- (1) corruptly encouraging a witness to execute a perjurious, false and misleading affidavit;
- (2) corruptly encouraging a witness to give perjurious, false and misleading testimony if called to testify;
- (3) corruptly engaging in, encouraging or supporting a scheme to conceal evidence;
- (4) intensifying and succeeding in an effort to secure job assistance to a witness in order to corruptly prevent the truthful testimony of that witness at a time when that witness's truthful testimony would have been harmful;

- (5) allowing his attorney to make false and misleading statements to a federal judge in order to prevent relevant questioning;
- (6) relating a false and misleading account of events to a potential witness in a civil rights action in order to corruptly influence the testimony of that person;
- (7) making false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence their testimony and causing the grand jury to receive false and misleading information.

The third paragraph alleges that, as a result of the foregoing, the President has, to the manifest injury of the people of the United States:

- undermined the integrity of his office;
- brought disrepute on the Presidency;
- betrayed his trust as President; and
- acted in a manner subversive of the rule of law and justice.

As with the first article, Article II does not set forth a single specific act alleged to have been performed by the President. Instead, it alleges general “encourage[ment]” to execute a false affidavit, provide misleading testimony, and conceal subpoenaed evidence. This Article also includes general allegations that the President undertook to “corruptly influence” and/or “corruptly prevent” the testimony of potential witnesses and that he “engaged in . . . or supported” a scheme to conceal evidence. Again, the Senate and the President have been left to guess at the charges (if any) actually agreed upon by the House.

B. Conviction on These Articles Would Violate the Constitutional Requirement That Two-Thirds of the Senate Reach Agreement that Specific Wrongdoing Has Been Proven

1. The Articles Bundle Together Disparate Allegations in Violation of the Constitution's Requirements of Concurrence and Due Process

a. The Articles Violate the Constitution's Two-Thirds Concurrence Requirement

Article I, section 3 of the Constitution provides that "no person shall be convicted [on articles of impeachment] without the Concurrence of two thirds of the Members present."

U.S. Const. Art. I, § 3, cl. 6. The Constitution's requirement is plain. There must be "Concurrence," which is to say genuine, reliably manifested, agreement, among those voting to convict. Both the committing of this task to the Senate and the two-thirds requirement are important constitutional safeguards reflecting the Framers' intent that conviction not come easily. Conviction demands real and objectively verifiable agreement among a substantial supermajority.

Indeed, the two-thirds supermajority requirement is a crucial constitutional safeguard. Supermajority provisions are constitutional exceptions¹¹⁵ to the presumption that decisions by legislative bodies shall be made by majority rule.¹¹⁶ These exceptions serve exceptional ends. The two-thirds concurrence rule serves the indispensable purpose of protecting the people who chose the President by election. By giving a "veto" to a minority of

¹¹⁵ See, e.g., U.S. Const. Art. I, § 7, cl. 2 (two thirds vote required to override Presidential veto); U.S. Const. Art. II, § 2, cl. 2 (two thirds required for ratification of treaties); U.S. Const. Art. V (two thirds required to propose constitutional amendments); U.S. Const. Art. I, § 5, cl. 2 (two thirds required to expel members of Congress).

¹¹⁶ Madison referred to majority voting as "the fundamental principal of free government." *Federalist No. 58* at 248 (G. Wills ed. 1982).

Senators, the Framers sought to ensure the rights of an electoral majority -- and to safeguard the people in their choice of Executive. Only the Senate and only the requirement of a two-thirds concurrence could provide that assurance.

The "Concurrence" required is agreement that the charges stated in specific articles have in fact been proved, and the language of those articles is therefore critical. Since the House of Representatives is vested with the "sole Power of Impeachment," U.S. Const. Art. I, § 2, cl. 5, the form of those articles cannot be altered by the Senate. And Rule XXIII of The Rules of Procedure and Practice in the Senate when Sitting on Impeachment Trials ("Senate Rules") provides that "[a]n article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial."

It follows that each Senator may vote on an article only in its totality. By the express terms of Article I, a Senator may vote for impeachment if he or she finds that there was perjurious, false and misleading testimony in any "one or more" of four topic areas. But that prospect creates the very real possibility that "conviction" could occur even though fewer than two-thirds of the Senators actually agree that any particular false statement was made.¹¹⁷ Put differently, the article's structure presents the possibility that the President could be convicted on Article I even though he would have been acquitted if separate votes were taken on individual allegedly perjurious statements. To illustrate the point, consider that it would be possible for conviction to result even with as few as seventeen Senators agreeing that any single statement was perjurious, because seventeen votes for one statement in each of four categories would yield

¹¹⁷ There remains the additional problem that the articles allege not specific perjurious statements, but perjury within a topic area. Perjury as to a category (rather than as to specific statements) is an incomprehensible notion.

68 votes, one more than necessary to convict. The problem is even worse if Senators agree that there is a single perjurious statement but completely disagree as to which statement within the 176 pages of transcript they believe is perjurious. Such an outcome would plainly violate the Constitution's requirement that there be conviction only when a two-thirds majority agrees.

The very same flaw renders Article II unconstitutional as well. That Article alleges a scheme of wrongdoing effected through "means" including "one or more" of seven factually and logically discrete "acts." That compound structure is fraught with the potential to confuse. For example, the Article alleges both concealment of gifts on December 28, 1997, and false statements to aides in late January 1998. These two allegations involve completely different types of behavior. They are alleged to have occurred in different months. They involved different persons. And they are alleged to have obstructed justice in different legal proceedings. In light of Senate Rule XXIII's prohibition on dividing articles, the combination of such patently different types of alleged wrongdoing in a single article creates the manifest possibility that votes for conviction on this article would not reflect any two-thirds agreement whatsoever.

The extraordinary problem posed by such compound articles is well-recognized and was illustrated by the proceedings in the impeachment of Judge Walter Nixon. Article III of the Nixon proceedings, like the articles here, was phrased in the disjunctive and charged multiple false statements as grounds for impeachment. Judge Nixon moved to dismiss Article III on a number of grounds, including on the basis of its compound structure.¹¹⁸ Although that motion

¹¹⁸ See Report of the Senate Impeachment Trial Committee on the Articles of Impeachment Against Judge Walter L. Nixon, Jr., Hearings Before the Senate Impeachment Trial Committee, 101st Cong., 1st Sess. at 257, 281-84 (1989).

was defeated in the full Senate by a vote of 34-63,¹¹⁹ the 34 Senators who voted to dismiss were a sufficient number to block conviction on Article III.

Judge Nixon (although convicted on the first two articles) was ultimately acquitted on Article III by a vote of 57 (guilty) to 40 (not guilty).¹²⁰ Senator Biden, who voted not guilty on the article, stated that the structure of the article made it "possible . . . for Judge Nixon to be convicted under article III even though two-thirds of the members present did not agree that he made any one of the false statements."¹²¹ Senator Murkowski concurred: "I don't appreciate the omnibus nature of article III, and I agree with the argument that the article could easily be used to convict Judge Nixon by less than the super majority vote required by the Constitution." *Id.* at 464.¹²² And Senator Dole stated that "Article III is redundant, complex and unnecessarily confusing. . . . It alleges that Judge Nixon committed five different offenses in connection with each of fourteen separate events, a total of seventy charges. . . . [I]t was virtually impossible for Judge Nixon and his attorneys to prepare an adequate defense."¹²³

In his written statement filed after the voting was completed, Senator Kohl pointed out the dangers posed by combining multiple accusations in a single article:

Article III is phrased in the disjunctive. It says that Judge Nixon concealed his conversations through "one or more" of 14 false statements.

¹¹⁹ *Judge Nixon Proceedings* at 430-32.

¹²⁰ *Id.* at 435-36.

¹²¹ Statement of Senator Joseph R. Biden, Jr., *id.* at 459.

¹²² See also Statement of Senator Bailey, Impeachment of Judge Harold Louderback, 77 Cong. Rec. 4238 (May 26, 1933) (respondent should be tried on individual articles and not on all of them assembled into one article).

¹²³ Statement of Senator Robert Dole, *Judge Nixon Proceedings* at 457.

This wording presents a variety of problems. First of all, it means that Judge Nixon can be convicted even if two thirds of the Senate does not agree on which of his particular statements were false

The House is telling us that it's OK to convict Judge Nixon on Article III even if we have different visions of what he did wrong. But that's not fair to Judge Nixon, to the Senate, or to the American people. Let's say we do convict on Article III. The American people -- to say nothing of history -- would never know exactly which of Judge Nixon's statements we regarded as untrue. They'd have to guess. What's more, this ambiguity would prevent us from being totally accountable to the voters for our decision.¹²⁴

As noted, the Senate acquitted Judge Nixon on the omnibus article -- very possibly because of the constitutional and related due process and fairness concerns articulated by Senator Kohl and others.¹²⁵

The constitutional problems identified by those Senators are significant when a single federal judge (one of roughly 1000) is impeached. But when the Chief Executive and sole head of one entire branch of our government stands accused, those infirmities are momentous. Fairness and the appearance of fairness require that the basis for any action this body might take be clear and specific. The Constitution clearly forbids conviction unless two thirds of the Senate concurs in a judgment. Any such judgment would be meaningless in the absence of a finding that specific, identifiable, wrongful conduct has in fact occurred. No such conclusion is possible under either article as drafted.

¹²⁴ Statement of Senator Herbert H. Kohl, *id.* at 449 (emphasis added). Senator Kohl did not believe that the constitutional question concerning two-thirds concurrence had to be answered in the Judge Nixon proceedings because he believed that the bundling problem created an unfairness (in effect, a due process violation) that precluded conviction. *Id.*

¹²⁵ See also Constitutional Grounds for Presidential Impeachment: Modern Precedents, Report by the Staff of the Impeachment Inquiry, Comm. on Judiciary, 105th Cong., 2d Sess. at 12 (1998) (discussing Sen. Kohl's position).

**b. Conviction on the Articles Would Violate Due Process
Protections that Forbid Compound Charges in a Single
Accusation**

Even apart from the Constitution's clear requirement of "Concurrence" in Article I, section 3, the fundamental principles of fairness and due process that underlie our Constitution and permeate our procedural and substantive law compel the same outcome. In particular, the requirement that there be genuine agreement by the deciding body before an accused is denied life, liberty or property is a cornerstone of our jurisprudence.¹²⁶

While in the federal criminal context due process requires that there be genuine agreement among the entire jury, *see United States v. Fawley*, 137 F.3d 458, 470 (7th Cir. 1998),

¹²⁶ Judicial precedent is persuasive here on these due process and fairness questions. Indeed, in prior impeachment trials, the Senate has been guided by decisions of the courts, because they reflect cumulative wisdom concerning fairness and the search for justice. During the impeachment trial of Judge Alcee L. Hastings, Senator Specter stated:

[T]he impeachment process [] relies in significant measure on decisions of the court and the opinion of judges . . . [T]he decisions and interpretations of the courts should be highly instructive to us. In our system of Government, it has been the courts that through the years have been called upon to construe, define and apply the provisions of our Constitution. Their decisions reflect our values and our evolving notions of justice . . . Although we are a branch of Government coequal with the judiciary, and by the Constitution vested with the "sole" power to try impeachments, I believe that the words and reasoning of judges who have struggled with the meaning and application of the Constitution and its provisions ought to be given great heed because that jurisprudence embodies the values of fairness and justice that ought to be the polestar of our own determinations.

S. Doc. 101-18, 101st Cong., 1st Sess. at 740-41. As Senator Specter observed, judicial rules have been developed and refined over the years to assure that court proceedings are fair, and that an accused is assured the necessary tools to prepare a proper defense, including proper notice.

Schad v. Arizona, 501 U.S. 624 (1991) (plurality), in the impeachment context, that requirement of genuine agreement must be expressed by a two-thirds supermajority. But the underlying due process principle is the same in both settings. This basic principle is bottomed on two fundamental notions: (1) that there be genuine agreement -- mutuality of understanding -- among those voting to convict, and (2) that the unanimous verdict be understood (by the accused and by the public) to have been the product of genuine agreement.

This principle is given shape in the criminal law in the well-recognized prohibition on "duplicious" charges. "Duplicity is the joining in a single count of two or more distinct and separate offenses." *United States v. UCO Oil*, 546 F.2d 833, 835 (9th Cir. 1976). In the law of criminal pleading, a single count that charges two or more separate offenses is duplicious. See *United States v. Parker*, 991 F.2d 1493, 1497-98 (9th Cir. 1993); *United States v. Hawkes*, 753 F.2d 355, 357 (4th Cir. 1985).¹²⁷ A duplicious charge in an indictment violates the due process principle that "the requisite specificity of the charge may not be compromised by the joining of separate offenses." *Schad v. Arizona*, 501 U.S. 624, 633 (1991) (plurality).

More specifically, a duplicious charge poses the acute danger of conviction by a less-than-unanimous jury; some jurors may find the defendant guilty of one charge but not guilty of a second, while other jurors find him guilty of a second charge but not the first. See *United States v. Saleh*, 875 F.2d 535, 537 (6th Cir. 1989); *United States v. Stanley*, 597 F.2d 866, 871

¹²⁷ See also Federal Rules of Criminal Procedure, Rule 8(a): "Two or more offenses may be charge in the same indictment or information in a separate count for each offense if the offenses charged . . . are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan." (emphasis added).

(4th Cir. 1979); *Bins v. United States*, 331 F.2d 390, 393 (5th Cir. 1964).¹²⁸ Our federal system of justice simply does not permit conviction by less than unanimous agreement concerning a single, identified charge. See *United States v. Fawley*, 137 F.3d 471 (7th Cir. 1998) (conviction requires unanimous agreement as to particular statements); *United States v. Holley*, 942 F.2d 916, 929 (5th Cir. 1991) (reversal required where no instruction was given to ensure that all jurors concur in conclusion that at least one particular statement was false); see also *United States v. Gipson*, 553 F.2d 453, 458-59 (5th Cir. 1977) (right to unanimous verdict violated by instruction authorizing conviction if jury found defendant committed any one of six acts proscribed by statute).¹²⁹

The protection against conviction by less than full agreement by the factfinders is enshrined in Rule 31(a) of the Federal Rules of Criminal Procedure which dictates that “[t]he verdict shall be unanimous.”¹³⁰

¹²⁸ Each of the four categories charged here actually comprises multiple allegedly perjurious statements. Thus, the dangers of dupliciousness are increased exponentially.

¹²⁹ The Supreme Court has stated that “[u]nanimity in jury verdicts is required where the Sixth and Seventh Amendments apply.” *Andres v. United States*, 333 U.S. 740, 748 (1948); *Apodaca v. Oregon*, 406 U.S. 404 (1972) (same).

¹³⁰ That rule gives expression to a criminal defendant’s due process right to a unanimous verdict. See *United States v. Fawley*, 137 F.2d 458, 4771 (7th Cir. 1988). Because the Constitution does not tolerate the risk of a less than unanimous verdict in the criminal setting, “where the complexity of a case or other factors create the potential for confusion as to the legal theory or factual basis which sustains a defendant’s conviction, a specific unanimity instruction is required.” *United States v. Jackson*, 879 F.2d 85, 88 (3d Cir. 1989) (citing *United States v. Beros*, 833 F.2d 455, 460 (3d Cir. 1987)). Such instructions are required where the government charges several criminal acts, any of which alone could have supported the offense charged, because of the need to provide sufficient guidance to assure that all members of the jury were unanimous on the same act or acts of illegality. *Id.* at 88. As the Seventh Circuit recently concluded in a case alleging multiple false statements, “the jury should have been advised that in order to have convicted [the defendant], they had to unanimously agree that a particular statement contained in the indictment was falsely made.” *Fawley*, 137 F.2d at 470.

Thus, where the charging instrument alleges multiple types of wrongdoing, the unanimity requirement “means more than a conclusory agreement that the defendant has violated the statute in question; there is a requirement of substantial agreement as to the principal factual elements underlying a specified offense.” *United States v. Ferris*, 719 F.2d 1405, 1407 (9th Cir. 1983) (emphasis added). Accordingly, although there need not be unanimity as to every bit of underlying evidence, due process “does require unanimous agreement as to the nature of the defendant’s violation, not simply that a violation has occurred.” *McKoy v. North Carolina*, 494 U.S. 433, 449 n.5 (1990) (Blackmun, J., concurring). Such agreement is necessary to fulfill the demands of fairness and rationality that inform the requirement of due process. *See Schad*, 501 U.S. at 637.¹³¹

Where multiple accusations are combined in a single charge, neither the accused nor the factfinder can know precisely what that charge means. When the factfinding body cannot agree upon the meaning of the charge, it cannot reach genuine agreement that conviction is warranted. These structural deficiencies preclude a constitutionally sound vote on the articles.

¹³¹ In our federal criminal process, a duplicitous pleading problem may sometimes be cured by instructions to the jury requiring unanimous agreement on a single statement, *see Fawley, supra*, but that option is not present here. Not only do the Senate Rules not provide for the equivalent of jury instructions, they expressly rule out the prospect of subdividing an article of impeachment for purposes of voting. *See* Senate Impeachment Rule XXIII. Nor is the duplicitousness problem presented here cured by any specific enumeration of elements necessary to be found by the factfinder. *See, e.g., Santarpio v. United States*, 560 F.2d 448 (1st Cir. 1977) (duplicitous charge harmless because indictments adequately set out the elements of the federal crime; appellants were not misled or prejudiced). Article I does not enumerate specific elements to be found by the factfinder. To the contrary, the Article combines multiple types of wrong, allegedly performed by different types of statements, the different types occurring in multiple subject matter areas, and all having a range of allegedly harmful effects.

C. Conviction on These Articles Would Violate Due Process Protections Prohibiting Vague and Nonspecific Accusations

1. The Law of Due Process Forbids Vague and Nonspecific Charges

Impermissibly vague indictments must be dismissed, because they “fail[] to sufficiently apprise the defendant ‘of what he must be prepared to meet.’” *United States v. Russell*, 369 U.S. 749, 764 (1962) (internal quotation omitted). In *Russell*, the indictment at issue failed to specify the subject matter about which the defendant had allegedly refused to answer questions before a Congressional subcommittee. Instead, the indictment stated only that the questions to which the answers were refused “were pertinent to the question then under inquiry” by the Subcommittee. *Id.* at 752. The Court held that because the indictment did not provide sufficient specificity, it was unduly vague and therefore had to be dismissed. *Id.* at 773. The Supreme Court explained that dismissal is the only appropriate remedy for an unduly vague indictment, because only the charging body can elaborate upon vague charges:

To allow the prosecutor, or the court, to make a subsequent guess as to what was in the minds of the grand jury at the time they returned the indictment would deprive the defendant of a basic protection which the guaranty of the intervention of a grand jury was designed to secure. For a defendant could then be convicted on the basis of facts not found by, and perhaps not even presented to, the grand jury which indicted him. This underlying principle is reflected by the settled rule in the federal courts that an indictment may not be amended except by resubmission to the grand jury . . .

Id. at 771. See also *Stirone v. United States*, 361 U.S. 212, 216 (1960); see also *United States v. Lattimore*, 215 F.2d 847 (D.C. Cir. 1954) (perjury count too vague to be valid cannot be cured even by bill of particulars); *United States v. Tonelli*, 577 F.2d 194, 200 (3d Cir. 1978) (vacating perjury conviction where “the indictment . . . did not ‘set forth the precise falsehood[s] alleged’”).

Under the relevant case law, the two exhibited Articles present paradigmatic examples of charges drafted too vaguely to enable the accused to meet the accusations fairly. More than a century ago, the Supreme Court stated that “[i]t is an elementary principle of criminal pleading, that where the definition of an offence, whether it be at common law or by statute, includes generic terms, it is not sufficient that the indictment shall charge the offence in the same generic terms as in the definition; but it must state the species -- it must descend to particulars.” *United States v. Cruikshank*, 92 U.S. 542, 558 (1875). The Court has more recently emphasized the fundamental “vice” of nonspecific indictments: that they “fail[] to sufficiently apprise the defendant ‘of what he must be prepared to meet.’” *Russell*, 369 U.S. at 764.

The Supreme Court emphasized in *Russell* that specificity is important not only for the defendant, who needs particulars to prepare a defense, but also for the decision-maker, “so it may decide whether [the facts] are sufficient in law to support a conviction, if one should be had.” *Id.* at 768 (internal citation and quotation marks omitted). An unspecific indictment creates a “moving target” for the defendant exposing the defendant to a risk of surprise through a change in the prosecutor’s theory. “It enables his conviction to rest on one point and the affirmance of the conviction to rest on another. It gives the prosecution free hand on appeal to fill in the gaps of proof by surmise and conjecture.” *Russell*, 369 U.S. at 766. Ultimately, an unspecific indictment creates a risk that “a defendant could . . . be convicted on the basis of facts not found by, and perhaps not even presented to, the grand jury which indicted him.” *Id.* at 770.

2. The Allegations of Both Articles Are Unconstitutionally Vague

Article I alleges that in his August 17, 1998 grand jury testimony, President Clinton provided "perjurious, false and misleading" testimony to the grand jury concerning "one or more" of four subject areas. Article I does not, however, set forth a single specific statement by the President upon which its various allegations are predicated. The Article haphazardly intermingles alleged criminal conduct with totally lawful conduct, and its abstract generalizations provide no guidance as to actual alleged perjurious statements.

Article I thus violates the most fundamental requirement of perjury indictments. It is fatally vague in three distinct respects: (1) it does not identify any statements that form the basis of its allegations,¹³² (2) it therefore does not specify which of the President's statements to the grand jury were allegedly "perjurious," which were allegedly "false," and which were allegedly "misleading," and (3) it does not even specify the subject matter of any alleged perjurious statement.

The first defect is fatal, because it is axiomatic that if the precise perjurious statements are not identified in the indictment, a defendant cannot possibly prepare his defense properly. *See, e.g., Slawik*, 548 F.2d 75, 83-84 (3d Cir. 1977). Indeed, in past impeachment trials in the Senate where articles of impeachment alleged the making of false statements, the false statements were specified in the Articles. For example, in the impeachment trial of Alcee

¹³² One of the cardinal rules of perjury cases is that "[a] conviction under 18 U.S.C. § 1623 may not stand where the indictment fails to set forth the precise falsehood alleged and the factual basis of its falsity with sufficient clarity to permit a jury to determine its verity and to allow meaningful judicial review of the materiality of those falsehoods." *United States v. Slawik*, 548 F.2d 75, 83-84 (3d Cir. 1977). Courts have vacated convictions for perjury in instances where "the indictment . . . did not 'set forth the precise falsehood(s) alleged.'" *Tonelli*, 577 F.2d at 200.

L. Hastings, Articles of Impeachment II-XIV specified the exact statements that formed the bases of the false statement allegations against Judge Hastings.¹³³ Similarly, in the impeachment trial of Walter L. Nixon, Jr., Articles of Impeachment I-III specified the exact statements that formed the bases of their false statement allegations.¹³⁴ In this case, Article I falls far short of specificity standards provided in previous impeachment trials in the Senate.

As to the second vagueness defect, there is a significant legal difference between, on the one hand, statements under oath which are “perjurious,” and those, on the other hand, which are simply “false” or “misleading.” Only the former could form the basis of a criminal charge. The Supreme Court has emphatically held that “misleading” statements alone cannot form the basis of a perjury charge. In *Bronston v. United States*, 409 U.S. 352 (1973), the Court held that literally true statements are by definition non-perjurious, and “it is no answer to say that here the jury found that [the defendant] intended to mislead his examiner,” since “[a] jury should not be permitted to engage in conjecture whether an unresponsive answer . . . was intended to mislead or divert the examiner.” *Id.* at 358-60 (emphasis added). The Court emphasized that “the perjury statute is not to be loosely construed, nor the statute invoked simply because a wily witness succeeds in derailing the questioner so long as the witness speaks the literal truth.” *Id.* Thus, specification of the exact statements alleged to be perjurious is required, because “to hold

¹³³ Proceedings of the United States Senate in the Impeachment Trial Alcee L. Hastings, 101st Cong., 1st Sess., S. Doc. 101-18 at 4-7 (1989). *See, e.g., Id.* at 2 (Article II alleging that the false statement was “that Judge Hastings and William Borders, of Washington, D.C., never made any agreement to solicit a bribe from defendants in *United States v. Romano*, a case tried before Judge Hastings”).

¹³⁴ Proceedings of the United States Senate in the Impeachment Trial of Walter L. Nixon, Jr., 101st Cong., 1st Sess., S. Doc. 101-22 at 430-32 (1989). *See, e.g., Id.* at 432 (Article I alleging that the false statement was “Forrest County District Attorney Paul Holmes never discussed the Drew Fairchild case with Judge Nixon.”).

otherwise would permit the trial jury to inject its inferences into the grand jury's indictment, and would allow defendants to be convicted for immaterial falsehoods or for 'intent to mislead' or 'perjury by implication,' which Bronston specifically prohibited." *Slawik*, 538 F.2d at 83-84 (emphasis added). Thus, if the House meant that certain statements were misleading but literally truthful, they might be subject to a motion to dismiss on the ground that the offense was not impeachable.

The same is true for allegedly "false" answers, because it is clear that mere "false" answers given under oath, without more, are not criminal. 18 U.S.C. § 1623, the statute proscribing perjury before a federal grand jury, requires additional elements beyond falsity, including the defendant's specific intent to testify falsely and the statement's materiality to the proceeding. A defense to a perjury charge is therefore tied directly to the specific statement alleged to have been perjurious. Did the defendant know the particular answer was false? Was it material?¹³⁵

¹³⁵ Not surprisingly, courts have specifically held that because of these additional elements (the lack of which may undermine a perjury prosecution), a defendant must know exactly which statements are alleged to form the basis of a perjury indictment to test whether the requisite elements are present. *See, e.g., United States v. Lattimore*, 215 F.2d 847, 850 (D.C. Cir. 1954) ("The accused is entitled under the Constitution to be advised as to every element in respect to which it is necessary for him to prepare a defense"). For example, because of the intent requirement, one potential defense to a perjury prosecution is that the question to which the allegedly perjurious statement was addressed was fundamentally ambiguous, as courts have held that fundamentally ambiguous questions cannot as a matter of law produce perjurious answers. *See, e.g., Tonelli*, 577 F.2d at 199; *United States v. Wall*, 371 F.2d 398 (6th Cir. 1967). A separate defense to a perjury prosecution is that the statement alleged to have been perjurious was not material to the proceeding. Thus, "false" statements alone are not perjurious if they were not material to the proceeding. By not specifying which statements are alleged to be "false" or "misleading," Article I precludes the President from preparing a materiality defense, and it also fails to distinguish allegedly criminal conduct from purely lawful conduct. As one court explained,

Article I's third vagueness defect is that it does not specify the subject matter of the alleged perjurious statements. Instead, it simply alleges that the unspecified statements by the President to the grand jury were concerning "one or more" of four enumerated areas. The "one or more" language underscores the reality that the President -- and, critically, the Senate -- cannot possibly know what the House majority had in mind, since it may have failed even to agree on the subject matter of the alleged perjury. The paramount importance of this issue may be seen by reference to court decisions holding that a jury has to "unanimously agree that a particular statement contained in the indictment was falsely made." *United States v. Fawley*, 137 F.3d 458, 471 (7th Cir. 1998) (emphasis added); *see also* discussion of unanimity requirement in Section VI.B, *supra*.

Article II is also unconstitutionally vague. It alleges that the President "obstructed and impeded the administration of justice . . . in a course of conduct or scheme designed to delay, impede, cover up and conceal" unspecified evidence and testimony in the *Jones* case. It sets forth seven instances in which the President allegedly "encouraged" false testimony or the concealment of evidence, or "corruptly influenced" or "corruptly prevented" various other testimony, also unspecified. In fact, not only does Article II fail to identify a single specific act performed by the President in this alleged scheme to obstruct justice, it does not even

It is to be observed that . . . it is not sufficient to constitute the offense that the oath shall be merely false, but that it must be false in some 'material matter.' Applying that definition to the facts stated in either count of this indictment, and it would seem that there is an entire lack in any essential sense to disclose that the particulars as to which the oath is alleged to have been false were material in the essential sense required for purposes of an indictment for this offense.

United States v. Cameron, 282 F. 684, 692 (D. Ariz. 1922).

identify the “potential witnesses” whose testimony the President allegedly sought to “corruptly influence.”

The President cannot properly defend against Article II without knowing, at a minimum, which specific acts of obstruction and/or concealment he is alleged to have performed, and which “potential witnesses” he is alleged to have attempted to influence. For example, it is clear that, in order to violate the federal omnibus obstruction of justice statute, 18 U.S.C. § 1503, an accuser must prove that there was a pending judicial proceeding, that the defendant knew of the proceeding, and that the defendant acted “corruptly” with the specific intent to obstruct or interfere with the proceeding or due administration of justice. *See, e.g., United States v. Bucey*, 876 F.2d 1297, 1314 (7th Cir. 1989); *United States v. Smith*, 729 F. Supp. 1380, 1383-84 (D.D.C. 1990). Without knowing which “potential witnesses” he is alleged to have attempted to influence, and the precise manner in which he is alleged to have attempted to obstruct justice, the President cannot prepare a defense that would address the elements of the offense with which he has been charged -- that he had no intent to obstruct, that there was no pending proceeding, or that the person involved was not a potential witness.

It follows that the requisite vote of two-thirds of the Senate required by the Constitution cannot possibly be obtained if there are no specific statements whatsoever alleged to be perjurious, false or misleading in Article I or no specific acts of obstruction alleged in Article II. Different Senators might decide that different statements or different acts were unlawful without any concurrence by two-thirds of the Senate as to any particular statement or act. Such a scenario is antithetical to the Constitution’s due process guarantee of notice of specific and definite charges and it threatens conviction upon vague and uncertain grounds. As currently

framed, neither Article I nor Article II provides a sufficient basis for the President to prepare a defense to the unspecified charges upon which the Senate may vote, or an adequate basis for actual adjudication.

D. The Senate's Judgment Will Be Final and That Judgment Must Speak Clearly and Intelligibly.

An American impeachment trial is not a parliamentary inquiry into fitness for office. It is not a vote of no confidence. It is not a mechanism whereby a legislative majority may oust a President from a rival party on political grounds. To the contrary, because the President has a limited term of office and can be turned out in the course of ordinary electoral processes, a Presidential impeachment trial is a constitutional measure of last resort designed to protect the Republic.

This Senate is therefore vested with an extremely grave Constitutional task: a decision whether to remove the President for the protection of the people themselves. In the Senate's hands there rests not only the fate of one man, but the integrity of our Constitution and our democratic process.

Fidelity to the Constitution and fidelity to the electorate must converge in the impeachment trial vote. If the Senate is to give meaning to the Constitution's command, any vote on removal must be a vote on one or more specifically and separately identified "high Crimes and Misdemeanors," as set forth in properly drafted impeachment articles approved by the House. If the people are to have their twice-elected President removed by an act of the Senate, that act must be intelligible. It must be explainable and justifiable to the people who first chose the President and then chose him again. The Senate must ensure that it has satisfied the Constitution's requirement of a genuine two-thirds concurrence that specific, identified

wrongdoing has been proven. The Senate must also assure the people, through the sole collective act the Senate is required to take, that its decision has a readily discernible and unequivocal meaning.

As matters stand, the Senate will vote on two highly complex Articles of Impeachment. Its vote will not be shaped by narrowing instructions. Its rules preclude a vote on divisible parts of the articles. There will be no judicial review, no correction of error, and no possibility of retrial. The Senate's decision will be as conclusive as any known to our law -- judicially, politically, historically, and most literally, irrevocable.

Under such circumstances, the Senate's judgment must speak clearly and intelligibly. That cannot happen if the Senate votes for conviction on these articles. Their compound structure and lack of specificity make genuine agreement as to specific wrongs impossible, and those factors completely prevent the electorate from understanding why the Senate as a whole voted as it did. As formulated, these articles satisfy neither the plain requirement of the Constitution nor the rightful expectations of the American people. The articles cannot support a constitutionally sound vote for conviction.

VII. THE NEED FOR DISCOVERY

The Senate need not address the issue of discovery at this time, but because the issue may arise at a later date, it is appropriate to remark here on its present status. Senate Resolution 16 provides that the record for purposes of the presentation by the House Managers and the President is the *public* record established in the House of Representatives.¹³⁶ Since this

¹³⁶ S. Res. 16 defined the record for the presentations as "those publicly available materials that have been submitted to or produced by the House Judiciary Committee, including transcripts of public hearings or mark-ups and any materials printed by the House of Representatives or House Judiciary Committee pursuant to House Resolutions 525 and 581."

record was created by the House itself and is ostensibly the basis for the House's impeachment vote, and because this evidence has been publicly identified and available for scrutiny, comment, and rebuttal, it is both logical and fair that this be the basis for any action by the Senate. Moreover, Senate Resolution 16 explicitly prohibits the President and the House Managers from filing at this time any "motions to subpoena witnesses or to present any evidence not in the record."

In the event, however, that the Senate should later decide, pursuant to the provisions of Senate Resolution 16, to allow the House Managers to expand the record in some way, our position should be absolutely clear. At such time, the President would have an urgent need for the discovery of relevant evidence, because at no point in these proceedings has he been able to subpoena documents or summon and cross-examine witnesses. He would need to use the compulsory process authorized by Senate Impeachment Rules V and VI¹³⁷ to obtain

¹³⁷ Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials (Senate Manual 99-2, as revised by S. Res. 479 (Aug. 16, 1986)). There is ample precedent for liberal discovery in Senate impeachment trials. For example, in the trial of Judge Alcee Hastings, the Senate issued numerous orders addressing a range of pretrial issues over several months including:

- requiring the parties to provide witness lists along with a description of the general nature of the testimony that was expected from each witness months in advance of the scheduled evidentiary hearing;
- requiring the House Managers to turn over exculpatory materials, certain prior statements of witnesses, and documents and other tangible evidence they intended to introduce into evidence;
- requiring the production from the House Managers of other documents in the interest of allowing the Senate to develop "a record that fully illuminates the matters that it must consider in rendering a judgment;"
- setting a briefing schedule for stipulations of facts and documents;

documentary evidence and witness depositions. While the President has access to some of the grand jury transcripts and FBI interview memoranda of witnesses called by the OIC, the President's own lawyers were not entitled to be present when these witnesses were examined. The grand jury has historically been the engine of the prosecution, and it was used in that fashion in this case. The OIC sought discovery of evidence with the single goal of documenting facts that it believed were prejudicial to the President. It did not examine witnesses with a view toward establishing there was no justification for impeachment; it did not follow up obvious leads when they might result in evidence helpful to the President; and it did not seek out and document exculpatory evidence. It did not undertake to disclose exculpatory information it might have identified.

Nor did the House of Representatives afford the President any discovery mechanisms to secure evidence that might be helpful in his defense. Indeed, the House called no fact witnesses at all, and at the few depositions it conducted, counsel for the President were excluded. Moreover, the House made available only a selected portion of the evidence it

-
- setting a number of pretrial conferences;
 - designating a date for final pretrial statements; and
 - permitting a number of pre-trial depositions.

Report of the Senate Impeachment Trial Committee on the Articles of Impeachment Against Judge Alcee L. Hastings, Hearings Before the Senate Impeachment Trial Committee, 101st Cong. 1st Sess. at 281, 286-87, 342-43, 606-07, 740.

The need for discovery in this case is in fact greater than in prior impeachment proceedings. In all other impeachment trials, there were either substantive investigations by the House or prior judicial proceedings in which the accused had a full opportunity to develop the evidentiary record and cross-examine witnesses. *See Id.* at 163-64 (pre-trial memorandum of Judge Hastings).

received from the OIC. While it published five volumes of the OIC materials (two volumes of appendices and three volumes of supplements), it withheld a great amount of evidence, and it denied counsel for the President access to this material. It is unclear what the criterion was for selecting evidence to include in the published volumes, but there does not appear to have been an attempt to include all evidence that may have been relevant to the President's defense. The President has not had access to a great deal of evidence in the possession of (for example) the House of Representatives and the OIC which may be exculpatory or relevant to the credibility of witnesses on whom the OIC and the House Managers rely.

Should the Senate decide to authorize the House Managers to call witnesses or expand the record, the President would be faced with a critical need for the discovery of evidence useful to his defense -- evidence which would routinely be available to any civil litigant involved in a garden-variety automobile accident case. The House Managers have had in their possession or had access at the OIC to significant amounts of non-public evidence, and they have frequently stated their intention to make use of such evidence. Obviously, in order to defend against such tactics, counsel for the President are entitled to discovery and a fair opportunity to test the veracity and reliability of this "evidence," using compulsory process as necessary to obtain testimony and documents. Trial by surprise obviously has no place in the Senate of the United States where the issue in the balance is the removal of the one political leader who, with the Vice-President, is elected by all the citizens of this country.¹³⁸

¹³⁸ In another context, the Supreme Court has observed that "the ends of justice will best be served by a system of liberal discovery which gives both parties the maximum possible amount of information from which to prepare their cases and thereby reduces the possibility of surprise at trial." *Wardius v. Oregon*, 412 U.S. 470, 473 (1973).

The need for discovery does not turn on the number of witnesses the House Managers may be authorized to depose.¹³⁹ If the House Managers call a single witness, that will initiate a process that leaves the President potentially unprepared and unable to defend adequately without proper discovery. The sequence of discovery is critical. The President *first* needs to obtain and review relevant documentary evidence not now in his possession. He *then* needs to be able to depose potentially helpful witnesses, whose identity may only emerge from the documents and from the depositions themselves. Obviously, he also needs to depose potential witnesses identified by the House Managers. Only at *that* point will the President be able intelligently to designate his own trial witnesses. This is both a logical procedure and one which is the product of long experience designed to maximize the search for truth and minimize unfair surprise. There is no conceivable reason it should not be followed here -- if the evidentiary record is opened.

Indeed, it is simply impossible to ascertain how a witness designated by the House Managers could fairly be rebutted without a full examination of the available evidence. is also the case that many sorts of helpful evidence and testimony emerge in the discovery process that may at first blush appear irrelevant or tangential. In any event, the normal adversarial process is the best guarantor of the truth. The President needs discovery here not simply to obtain evidence to present at trial but also in order to make an informed judgment about what to introduce in response to the Managers' expanded case. The President's counsel must be able to make a properly knowledgeable decision about what evidence may be relevant

¹³⁹ It is not sufficient that counsel for the President have the right to depose the witnesses called by the Managers, essential as that right is. The testimony of a single witness

and helpful to the President's defense, both in cross-examination and during the President's own case.

The consequences of an impeachment trial are immeasurably grave: the removal of a twice-elected President. Particularly given what is at stake, fundamental fairness dictates that the President be given at least the same right as an ordinary litigant to obtain evidence necessary for his defense, particularly when a great deal of that evidence is presently in the hands of his accusers, the OIC and the House Managers. The Senate has wisely elected to proceed on the public record established by the House of Representatives, and this provides a wholly adequate basis for Senate decision-making. In the event the Senate should choose to expand this record, affording the President adequate discovery is absolutely essential.

VIII. CONCLUSION

As the Senate considers these Articles of Impeachment and listens to the arguments, individual Senators are standing in the place of the Framers of the Constitution, who prayed that the power of impeachment and removal of a President would be invoked only in the gravest of circumstances, when the stability of our system of government hung in the balance -- to protect the Republic itself from efforts to subvert our Constitutional system.

The Senate has an obligation to turn away an unwise and unwarranted misuse of the awesome power of impeachment. If the Senate removes this President for a wrongful relationship he hoped to keep private, for what will the House ask the Senate to remove the next President, and the next? Our Framers wisely gave us a constitutional system of checks and balances, with three co-equal branches. Removing this President on these facts would

may have to be refuted indirectly, circumstantially, or by a number of witnesses; it is often necessary to depose several witnesses in order to identify the one or two best.

substantially alter the delicate constitutional balance, and move us closer to a quasi-parliamentary system, in which the President is elected to office by the choice of the people, but continues in office only at the pleasure of Congress.

In weighing the evidence and assessing the facts, we ask that Senators consider not only the intent of the Framers but also the will and interests of the people. It is the citizens of these United States who will be affected by and stand in judgment of this process. It is not simply the President -- but the vote the American people rendered in schools, church halls and other civic centers all across the land twenty-six months ago -- that is hanging in the balance.

Respectfully submitted,

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January 13, 1999

IN THE SENATE OF THE UNITED STATES
SITTING AS A COURT OF IMPEACHMENT

In re)
Impeachment of)
William Jefferson Clinton,)
President of the United States)
_____)

APPENDIX TO TRIAL MEMORANDUM OF PRESIDENT

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January 20, 1999

**IN THE SENATE OF THE UNITED STATES
SITTING AS A COURT OF IMPEACHMENT**

In re)
Impeachment of)
William Jefferson Clinton,)
President of the United States)

APPENDIX TO TRIAL MEMORANDUM OF PRESIDENT

Senate Resolution 16 stated that the record for the presentations by the House Managers and the President shall consist of “those publicly available materials that have been submitted to or produced by the House Judiciary Committee, including transcripts of public hearings or mark-ups and any materials printed by the House of Representatives or House Judiciary Committee pursuant to House Resolution 525 and 581.” Because this record is exceedingly voluminous, we include in this Appendix excerpts from various portions of it which are relevant to the Trial Brief of the President, filed January 13, 1999, and to the oral presentation by counsel for the President. By lines drawn in the margin and by asterisks, we have indicated matter that is of particular relevance. Most of the material in this Appendix was printed in the 3183-page two-volume Appendices, ordered printed by the House on September 18, 1998, or in the 4610-page three-volume Supplemental Materials, ordered printed by the House on September 28, 1998. In these excerpts, the original page number from the Appendices or Supplemental Materials appears at the top of the page, to allow the reader to locate the excerpts in the record itself, and the Appendix Index (*infra*) states whether this pagination is from the Appendices or Supplemental Materials (in a few instances, the Appendix Index notes that a document was separately publicly released by the House Judiciary Committee, so there is no pagination at the top of the page).

**APPENDIX INDEX
PART I**

- “App.”= Appendices to the Referral to the United States House of Representatives Pursuant to Title 28, United States Code, Section 595(c) Submitted by the Office of the Independent Counsel, September 9, 1998 (House Judiciary Committee) (ordered printed September 18, 1998: two volumes).
- “Supp.”= Supplemental Materials to the Referral to the United States House of Representatives Pursuant to Title 28, United States Code, Section 595(c) Submitted by the Office of the Independent Counsel, September 9, 1998 (House Judiciary Committee) (ordered printed September 18, 1998: three volumes).

Tab

- A. Excerpts from the August 17, 1998 Grand Jury Testimony of President Clinton (App.)
- B. Excerpts from the January 17, 1998 Deposition of President Clinton (released by House Judiciary Committee)
- C. Jones v. Clinton, Clinton Deposition Exhibit #1 (“Definition of Sexual Relations”) (App.)
- D. Excerpts from the Testimony and Statements of Monica Lewinsky (App.).....
- E. Robert S. Bennett, Esq., letter to Judge Wright, dated September 30, 1998 (Referenced in Article II)
- F. Excerpts from the Testimony of and Statements of Betty Currie (Supp.)

EXHIBIT A

OFFICE OF THE INDEPENDENT COUNSEL

-----X
 :
 TESTIMONY OF : Monday, August 17, 1998
 :
 WILLIAM JEFFERSON CLINTON : Washington, D. C.
 :
 -----X

Videotaped testimony of

PRESIDENT WILLIAM JEFFERSON CLINTON
 before the Independent Counsel, held at The White House,
 Washington, D. C., beginning at 1:03 p.m., when were
 present on behalf of the respective parties:

FOR THE INDEPENDENT COUNSEL: KENNETH W. STARR, ESQ.
 Independent Counsel
 JACKIE M. BENNETT, JR., ESQ.
 ROBERT J. BITTMAN, ESQ.
 SOLOMON L. WISENBERG, ESQ.
 Deputy Independent Counsel
 MICHAEL W. EMMICK, ESQ.
 MARY ANNE WIRTH, ESQ.
 BERNARD JAMES APPERSON, ESQ.
 Associate Independent Counsel

FOR THE PRESIDENT: DAVID E. KENDALL, ESQ.
 NICOLE SELIGMAN, ESQ.
 Williams & Connolly
 CHARLES F. C. RUFF, ESQ.
 Counsel to the President

ALSO PRESENT: JAMES P. RICKARDS, JR.
 Senior Consultant, OIC
 GARY E. BRESNAHAN
 White House Technical Staff
 Secret Service Agent

Court Reporter: Elizabeth A. Eastman

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1 BY MR. BITTMAN:

2 Q Good afternoon, Mr. President.

3 A Good afternoon, Mr. Bittman.

4 Q My name is Robert Bittman. I'm an attorney with
5 the Office of Independent Counsel.

6 Mr. President, we are first going to turn to some
7 of the details of your relationship with Monica Lewinsky that
8 follow up on your deposition that you provided in the Paula
9 Jones case, as was referenced, on January 17th, 1998.

10 The questions are uncomfortable, and I apologize
11 for that in advance. I will try to be as brief and direct as
12 possible.

13 Mr. President, were you physically intimate with
14 Monica Lewinsky?

15 A Mr. Bittman, I think maybe I can save the -- you
16 and the grand jurors a lot of time if I read a statement,
17 which I think will make it clear what the nature of my
18 relationship with Ms. Lewinsky was and how it related to the
19 testimony I gave, what I was trying to do in that testimony.
20 And I think it will perhaps make it possible for you to ask
21 even more relevant questions from your point of view.

22 And, with your permission, I'd like to read that
23 statement.

24 Q Absolutely. Please, Mr. President.

25 A When I was alone with Ms. Lewinsky on certain

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1 occasions in early 1996 and once in early 1997, I engaged in
2 conduct that was wrong. These encounters did not consist of
3 sexual intercourse. They did not constitute sexual relations
4 as I understood that term to be defined at my January 17th,
5 1998 deposition. But they did involve inappropriate intimate
6 contact.

7 These inappropriate encounters ended, at my
8 insistence, in early 1997. I also had occasional telephone
9 conversations with Ms. Lewinsky that included inappropriate
10 sexual banter.

11 I regret that what began as a friendship came to
12 include this conduct, and I take full responsibility for my
13 actions.

14 While I will provide the grand jury whatever other
15 information I can, because of privacy considerations
16 affecting my family, myself, and others, and in an effort to
17 preserve the dignity of the office I hold, this is all I will
18 say about the specifics of these particular matters.

19 I will try to answer, to the best of my ability,
20 other questions including questions about my relationship
21 with Ms. Lewinsky; questions about my understanding of the
22 term "sexual relations", as I understood it to be defined at
23 my January 17th, 1998 deposition; and questions concerning
24 alleged subornation of perjury, obstruction of justice, and
25 intimidation of witnesses.

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1 That, Mr. Bittman, is my statement.

2 Q Thank you, Mr. President. And, with that, we would
3 like to take a break.

4 A Would you like to have this?

5 Q Yes, please. As a matter of fact, why don't we
6 have that marked as Grand Jury Exhibit WJC-1.

7 (Grand Jury Exhibit WJC-1 was
8 marked for identification.)

9 THE WITNESS: So, are we going to take a break?

10 MR. KENDALL: Yes. We will take a break. Can we
11 have the camera off, now, please? And it's 1:14.

12 (Whereupon, the proceedings were recessed from 1:14 p.m.
13 until 1:30 p.m.)

14 MR. KENDALL: 1:30, Bob.

15 MR. BITTMAN: It's 1:30 and we have the feed with
16 the grand jury.

17 BY MR. BITTMAN:

18 Q Good afternoon again, Mr. President.

19 A Good afternoon, Mr. Bittman.

20 (Discussion off the record.)

21 BY MR. BITTMAN:

22 Q Mr. President, your statement indicates that your
23 contacts with Ms. Lewinsky did not involve any inappropriate,
24 intimate contact.

25 MR. KENDALL: Mr. Bittman, excuse me. The

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1 witness --

2 THE WITNESS: No, sir. It indicates --

3 MR. KENDALL: The witness does not have --

4 THE WITNESS: -- that it did involve inappropriate
5 and intimate contact.

6 BY MR. BITTMAN:

7 Q Pardon me. That it did involve inappropriate,
8 intimate contact.

9 A Yes, sir, it did.

10 MR. KENDALL: Mr. Bittman, the witness -- the
11 witness does not have a copy of the statement. We just have
12 the one copy.

13 MR. BITTMAN: If he wishes --

14 MR. KENDALL: Thank you.

15 MR. BITTMAN: -- his statement back?

16 BY MR. BITTMAN:

17 Q Was this contact with Ms. Lewinsky, Mr. President,
18 did it involve any sexual contact in any way, shape, or form?

19 A Mr. Bittman, I said in this statement I would like
20 to stay to the terms of the statement. I think it's clear
21 what inappropriately intimate is. I have said what it did
22 not include. I -- it did not include sexual intercourse, and
23 I do not believe it included conduct which falls within the
24 definition I was given in the Jones deposition. And I would
25 like to stay with that characterization.

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1 definition?

2 A No, sir. I thought it was a rather -- when I read
3 it, I thought it was a rather strange definition. But it was
4 the one the Judge decided on and I was bound by it. So, I
5 took it.

6 Q During the deposition, you remember that Ms.
7 Lewinsky's name came up and you were asked several questions
8 about her. Do you remember that?

9 A Yes, sir, I do.

10 Q During those -- or before those questions actually
11 got started, your attorney, Mr. Bennett, objected to any
12 questions about Ms. Lewinsky, and he represented to Judge
13 Wright, who was presiding -- that was unusual, wasn't it,
14 that a federal judge would come and actually -- in your
15 experience -- that a federal judge would come and preside at
16 a deposition?

17 MR. KENDALL: Mr. Bittman, excuse me. Could you
18 identify the transcript page upon which Mr. Bennett objected
19 to all testimony about Ms. Lewinsky before it got started?

20 MR. BITTMAN: The objection, this quote that I'm
21 referring to, is going to begin at page 54 of the deposition.

22 MR. KENDALL: That is into the testimony though,
23 after the testimony about Ms. Lewinsky has begun, is it not?

24 BY MR. BITTMAN:

25 Q Mr. President, is it unusual for a federal judge to

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1 preside over a civil deposition?

2 A I think it is, but this was an unusual case. I
3 believe I know why she did it.

4 Q Your attorney, Mr. Bennett, objected to the
5 questions about Ms. Lewinsky, didn't he?

6 A What page is that on, sir?

7 Q Page 54, where he questions whether the attorneys
8 for Ms. Jones had a good faith basis to ask some of the
9 questions that they were posing to you. His objections
10 actually begin on page 53.

11 Since, as the President pointed out that the grand
12 jurors correctly do not have a copy of the deposition, I will
13 read the portion that I am referring to. And this begins at
14 line 1 on page 54.

15 "I question the good faith of counsel, the innuendo
16 in the question. Counsel is fully aware that Ms. Lewinsky
17 has filed, has an affidavit which they are in possession of
18 saying that there is absolutely no sex of any kind in any
19 manner, shape or form, with President Clinton".

20 A Where is that?

21 Q That is on page 54, Mr. President, beginning at
22 line 1, about midway through line 1.

23 A Well, actually, in the present tense that is an
24 accurate statement. That was an, that was an accurate
25 statement, if -- I don't -- I think what Mr. Bennett was.

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1 concerned about, if I -- maybe it would be helpful to you and
2 to the grand jurors, quite apart from these comments, if I
3 could tell you what his state of mind was, what my state of
4 mind was, and why I think the Judge was there in the first
5 place.

6 If you don't want me to do it, I won't. But I
7 think it will help to explain a lot of this.

8 Q Well, we are interested, and I know from the
9 questions that we've received from the grand jurors they are
10 interested in knowing what was going on in your mind when you
11 were reading Grand Jury Exhibit 2, and what you understood
12 that definition to include.

13 Our question goes to whether -- and you were
14 familiar, and what Mr. Bennett was referring to obviously is
15 Ms. Lewinsky's affidavit. And we will have that marked, Mr.
16 President, as Grand Jury Exhibit WJC-4.

17 (Grand Jury Exhibit WJC-4 was
18 marked for identification.)

19 BY MR. BITTMAN:

20 Q And you remember that Ms. Lewinsky's affidavit said
21 that she had had no sexual relationship with you. Do you
22 remember that?

23 A I do.

24 Q And do you remember in the deposition that Mr.
25 Bennett asked you about that. This is at the end of the --

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1 towards the end of the deposition. And you indicated, he
2 asked you whether the statement that Ms. Lewinsky made in her
3 affidavit was --

4 A Truthful.

5 Q -- true. And you indicated that it was absolutely
6 correct.

7 A I did. And at the time that she made the
8 statement, and indeed to the present day because, as far as I
9 know, she was never deposed since the Judge ruled she would
10 not be permitted to testify in a case the Judge ruled had no
11 merit; that is, this case we're talking about.

12 I believe at the time that she filled out this
13 affidavit, if she believed that the definition of sexual
14 relationship was two people having intercourse, then this is
15 accurate. And I believe that is the definition that most
16 ordinary Americans would give it.

17 If you said Jane and Harry have a sexual
18 relationship, and you're not talking about people being drawn
19 into a lawsuit and being given definitions, and then a great
20 effort to trick them in some way, but you are just talking
21 about people in ordinary conversations, I'll bet the grand
22 jurors, if they were talking about two people they know, and
23 said they have a sexual relationship, they meant they were
24 sleeping together; they meant they were having intercourse
25 together.

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1 So, I'm not at all sure that this affidavit is not
2 true and was not true in Ms. Lewinsky's mind at the time she
3 swore it out.

4 Q Did you talk with Ms. Lewinsky about what she meant
5 to write in her affidavit?

6 A I didn't talk to her about her definition. I did
7 not know what was in this affidavit before it was filled out
8 specifically. I did not know what words were used
9 specifically before it was filled out, or what meaning she
10 gave to them.

11 But I'm just telling you that it's certainly true
12 what she says here, that we didn't have -- there was no
13 employment, no benefit in exchange, there was nothing having
14 anything to do with sexual harassment. And if she defined
15 sexual relationship in the way I think most Americans do,
16 meaning intercourse, then she told the truth.

17 Q My question --

18 A And that depends on what was in her mind. I don't
19 know what was in her mind. You'll have to ask her that.

20 Q But you indicated before that you were aware of
21 what she intended by the term "sexual relationship".

22 A No, sir. I said I thought that this could be a
23 truthful affidavit. And when I read it, since that's the way
24 I would define it, since -- keep in mind, she was not, she
25 was not bound by this sexual relations definition, which is

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1 highly unusual; I think anybody would admit that. When she
2 used a different term, sexual relationship, if she meant by
3 that what most people mean by it, then that is not an
4 untruthful statement.

5 Q So, your definition of sexual relationship is
6 intercourse only, is that correct?

7 A No, not necessarily intercourse only. But it would
8 include intercourse. I believe, I believe that the common
9 understanding of the term, if you say two people are having a
10 sexual relationship, most people believe that includes
11 intercourse. So, if that's what Ms. Lewinsky thought, then
12 this is a truthful affidavit. I don't know what was in her
13 mind. But if that's what she thought, the affidavit is true.

14 Q What else would sexual relationship include besides
15 intercourse?

16 A Well, that -- I think -- let me answer what I said
17 before. I think most people when they use that term include
18 sexual relationships and whatever other sexual contact is
19 involved in a particular relationship. But they think it
20 includes intercourse as well. And I would have thought so.
21 Before I got into this case and heard all I've heard, and
22 seen all I've seen, I would have thought that that's what
23 nearly everybody thought it meant.

24 Q Well, I ask, Mr. President, because your attorney,
25 using the very document, Grand Jury Exhibit 4, WJC-4,

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1 represented to Judge Wright that his understanding of the
2 meaning of that affidavit, which you've indicated you thought
3 Ms. Lewinsky thought was, she was referring just to
4 intercourse, he says to Judge Wright that it meant absolutely
5 no sex of any kind in any manner, shape or form.

6 A Well, let me say this. I didn't have any
7 discussion obviously at this moment with Mr. Bennett. I'm
8 not even sure I paid much attention to what he was saying. I
9 was thinking, I was ready to get on with my testimony here
10 and they were having these constant discussions all through
11 the deposition. But that statement in the present tense, at
12 least, is not inaccurate, if that's what Mr. Bennett meant.
13 That is, at the time that he said that, and for some time
14 before, that would be a completely accurate statement.

15 Now, I don't believe that he was -- I don't know
16 what he meant. You'd have to talk to him, because I just
17 wasn't involved in this, and I didn't pay much attention to
18 what was being said. I was just waiting for them to get back
19 to me. So, I can't comment on, or be held responsible for,
20 whatever he said about that, I don't think.

21 Q Well, if you -- do you agree with me that if he
22 mislead Judge Wright in some way that you would have
23 corrected the record and said, excuse me, Mr. Bennett, I
24 think the Judge is getting a misimpression by what you're
saying?

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1 A Mr. Bennett was representing me. I wasn't
2 representing him. And I wasn't even paying much attention to
3 this conversation, which is why, when you started asking me
4 about this, I asked to see the deposition. I was focusing on
5 my answers to the questions. And I've told you what I
6 believe about this deposition, which I believe to be true.

7 And it's obvious, and I think by your questions you
8 have betrayed that the Jones lawyers' strategy in this case
9 had nothing to do with uncovering or proving sexual
10 harassment.

11 By the time this discovery started, they knew they
12 had a bad case on the law and they knew what our evidence
13 was. They knew they had a lousy case on the facts. And so
14 their strategy, since they were being funded by my political
15 opponents, was to have this dragnet of discovery. They
16 wanted to cover everybody. And they convinced the Judge,
17 because she gave them strict orders not to leak, that they
18 should be treated like other plaintiffs in other civil cases,
19 and how could they ever know whether there had been any
20 sexual harassment, unless they first knew whether there had
21 been any sex.

22 And so, with that broad mandate limited by time and
23 employment in the federal or state government, they proceeded
24 to cross the country and try to turn up whatever they could;
25 not because they thought it would help their case. By the

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1 time they did this discovery, they knew what this deal was in
2 their case, and they knew what was going to happen. And
3 Judge Wright subsequently threw it out. What they --

4 Q With all respect, Mister --

5 A Now, let me finish, Mr. Bennett [sic]. I mean, you
6 brought this up. Excuse me, Mr. Bittman.

7 What they wanted to do, and what they did do, and
8 what they had done by the time I showed up here, was to find
9 any negative information they could on me, whether it was
10 true or not; get it in a deposition; and then leak it, even
11 though it was illegal to do so. It happened repeatedly. The
12 Judge gave them orders.

13 One of the reasons she was sitting in that
14 deposition was because she was trying to make sure that it
15 didn't get out of hand.

16 But that was their strategy, and they did a good
17 job of it, and they got away with it. I've been subject to
18 quite a lot of illegal leaking, and they had a very
19 determined deliberate strategy, because their real goal was
20 to hurt me. When they knew they couldn't win the lawsuit,
21 they thought, well, maybe we can pummel him. Maybe they
22 thought I'd settle. Maybe they just thought they would get
23 some political advantage out of it. But that's what was
24 going on here.

25 Now, I'm trying to be honest with you, and it hurts

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1 me. And I'm trying to tell you the truth about what happened
2 between Ms. Lewinsky and me. But that does not change the
3 fact that the real reason they were zeroing in on anybody was
4 to try to get any person in there, no matter how uninvolved
5 with Paula Jones, no matter how uninvolved with sexual
6 harassment, so they could hurt me politically. That's what
7 was going on.

8 Because by then, by this time, this thing had been
9 going on a long time. They knew what our evidence was. They
10 knew what the law was in the circuit in which we were
11 bringing this case. And so they just thought they would take
12 a wrecking ball to me and see if they could do some damage.

13 Q Judge Wright had ruled that the attorneys in the
14 Jones case were permitted to ask you certain questions,
15 didn't she?

16 A She certainly did. And they asked them and I did
17 my best to answer them. I'm just trying to tell --

18 Q And was it your responsibility --

19 A -- you what my state of mind was.

20 Q -- to answer those questions truthfully, Mr.
21 President?

22 A It was.

23 Q And was --

24 A But it was not my responsibility, in the face of
25 their repeated illegal leaking, it was not my responsibility

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1 to volunteer a lot of information. There are many cases in
2 this deposition where I gave -- and keep in mind, I prepared,
3 I treated them, frankly, with respect. I prepared very well
4 for this deposition on the Jones matters. I prepared very
5 well on that. I did not know that Linda Tripp had been
6 involved in the preparation of this deposition, or that all
7 of you --

8 Q Do you know that now?

9 A No, I don't. I just know that -- what I read in
10 the papers about it. But I had no way of knowing that they
11 would ask me all these detailed questions. I did the best I
12 could to answer them.

13 Q Did you prepare --

14 A But in this deposition, Mr. Bittman, I was doing my
15 best to be truthful. I was not trying to be particularly
16 helpful to them, and I didn't think I had an obligation to be
17 particularly helpful to them to further a -- when I knew that
18 there was no evidence here of sexual harassment, and I knew
19 what they wanted to do was to leak this, even though it was
20 unlawful to do so. That's --

21 Q Did you believe, Mr. President --

22 A -- what I knew.

23 Q -- that you had an obligation to make sure that the
24 presiding federal judge was on board and had the correct
25 facts? Did you believe that was your obligation?

1 A Sir, I was trying to answer my testimony. I was
2 thinking about my testimony. I don't believe I ever even
3 focused on what Mr. Bennett said in the exact words he did
4 until I started reading this transcript carefully for this
5 hearing. That moment, that whole argument just passed me by.
6 I was a witness. I was trying to focus on what I said and
7 how I said it.

8 And, believe me, I knew what the purpose of the
9 deposition was. And, sure enough, by the way, it did all
10 leak, just like I knew it would.

11 Q Let me ask you, Mr. President, you indicate in your
12 statement that you were alone with Ms. Lewinsky. Is that
13 right?

14 A Yes, sir.

15 Q How many times were you alone with Ms. Lewinsky?

16 A Let me begin with the correct answer. I don't know
17 for sure. But if you would like me to give an educated
18 guess, I will do that, but I do not know for sure. And I
19 will tell you what I think, based on what I remember. But I
20 can't be held to a specific time, because I don't have
21 records of all of it.

22 Q How many times do you think?

23 A Well, there are two different periods here.
24 There's the period when she worked in the White House until
25 April of '96. And then there's the period when she came back

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1 think the outer limits are. I would think that would sound
2 about right. There could be, in that first four-month
3 period, there, maybe there's one or two more, maybe there's
4 one less. I just don't know. I don't remember. I didn't
5 keep records.

6 But I'm giving you what I specifically remember and
7 then what I generally remember. I'm doing the best to be
8 helpful to you.

9 Q Have you reviewed the records for December 28th,
10 1997, Mr. President?

11 A Yes, sir, I have.

12 Q Do you believe that Ms. Lewinsky was at the White
13 House and saw you on December 28th, 1997?

14 A Yes, sir, I do.

15 Q And do you remember talking with Ms. Lewinsky about
16 her subpoena that she received for the Paula Jones case on
17 that day?

18 A I remember talking with Ms. Lewinsky about her
19 testimony, or about the prospect that she might have to give
20 testimony. And she, she talked to me about that. I remember
21 that.

22 Q And you also gave her Christmas gifts, is that not
23 correct, Mr. President?

24 A That is correct. They were Christmas gifts and
25 they were going-away gifts. She was moving to New York to,

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1 taking a new job, starting a new life. And I gave her some
2 gifts.

3 Q And you actually requested this meeting, is that
4 not correct?

5 A I don't remember that, Mr. Bittman, but it's quite
6 possible that I invited her to come by before she left town.
7 But usually when we met, she requested the meetings. And my
8 recollection is, in 1997 she asked to meet with me several
9 times when I could not meet with her and did not do so. But
10 it's quite possible that I -- that because she had given me a
11 Christmas gift, and because she was leaving, that I invited
12 her to come by the White House and get a couple of gifts
13 before she left town.

14 I don't remember who requested the meeting though.
15 I'm sorry, I don't.

16 Q You were alone with her on December 28, 1997, is
17 that --

18 A Yes, sir.

19 Q -- right?

20 A I was.

21 Q The gifts that you gave her were a canvas bag from
22 The Black Dog restaurant at Martha's Vineyard, is that
23 right?

24 A Well, that was just, that was just something I had
25 in the placé to, to contain the gifts. But I believe that

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1 the gifts I gave her were -- I put them in that bag. That's
2 what I had there, and I knew she liked things from The Black
3 Dog. So, I gave her -- I think that's what I put the
4 presents in.

5 I remember what the presents were. I don't
6 remember what the bag was I gave them in.

7 Q Did you also give her a marble bear's head carving
8 from Vancouver, Canada?

9 A I did do that. I remember that.

10 Q And you also gave her a Rockettes blanket; that is,
11 the famous Rockettes from New York?

12 A I did do that. I had that, I had had that in my
13 possession for a couple of years but had never used it, and
14 she was going to New York. So, I thought it would be a nice
15 thing to give her.

16 Q You gave her a box of cherry chocolates, is that
17 right?

18 A I don't remember that, sir. I mean, there could
19 have been. I, I just don't remember. I remember giving the
20 bear and the throw. I don't remember what else. And it
21 seems to me like there was one other thing in that bag. I
22 didn't remember the cherry chocolates.

23 Q How about a pin of the New York skyline? Did you
24 give --

25 A That --

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1 Q -- her that?

2 A That could have been in there. I seem to remember
3 I gave her some kind of pin.

4 Q What about a pair of joke sunglasses?

5 A I don't remember that. I'm not denying it. I just
6 -- I'm telling you what I remember and what I don't.

7 Q You had given Ms. Lewinsky gifts on other occasions
8 though, is that right, Mr. President?

9 A Yes, I had.

10 Q This, though, was -- you gave her the most gifts
11 that you had ever given her in a single day, is that right?

12 A Well, that's probably true. It was sort of like a
13 going-away present and a Christmas present as well. And she
14 had given me a particularly nice book for Christmas, an
15 antique book on Presidents. She knew that I collected old
16 books and it was a very nice thing. And I just thought I
17 ought to get up a few things and give them to her before she
18 left.

19 Q You mentioned that you discussed her subpoena in
20 the Paula Jones case. Tell us specifically, what did you
21 discuss?

22 A No, sir, that's not what I said. I said, my
23 recollection is I knew by then, of course, that she had
24 gotten a subpoena. And I knew that she was, therefore, was
25 slated to testify. And she mentioned to me -- and I believe

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1 it was at this meeting. She mentioned -- I remember a
2 conversation about the possibility of her testifying. I
3 believe it must have occurred on the 28th.

4 She mentioned to me that she did not want to
5 testify. So, that's how it came up. Not in the context of,
6 I heard you have a subpoena, let's talk about it.

7 She raised the issue with me in the context of her
8 desire to avoid testifying, which I certainly understood; not
9 only because there were some embarrassing facts about our
10 relationship that were inappropriate, but also because a
11 whole lot of innocent people were being traumatized and
12 dragged through the mud by these Jones lawyers with their
13 dragnet strategy. They --

14 Q So --

15 A And so I -- and since she didn't know Paula Jones
16 and knew nothing about sexual harassment, and certainly had
17 no experience with that, I, I clearly understood why she
18 didn't want to be a part of it.

19 Q And you didn't want her to testify, did you? You
20 didn't want her to disclose these embarrassing facts of this
21 inappropriate intimate relationship that you had, is that
22 correct?

23 A Well, I did not want her to have to testify and go
24 through that. And, of course, I didn't want her to do that,
25 of course not.

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1 Q Did you want those facts, not only the fact that
2 she would testify, but did you want the facts that she had
3 about your embarrassing inappropriate intimate relationship
4 to be disclosed?

5 A Not there, but not in any context. However, I, I
6 never had any high confidence that they wouldn't be.

7 Q Did anyone, as far as you knew, know about your
8 embarrassing inappropriate intimate relationship that you had
9 with Ms. Lewinsky?

10 A At that time, I was unaware that she had told
11 anyone else about it. But if, if I had known that, it would
12 not have surprised me.

13 Q Had you told anyone?

14 A Absolutely not.

15 Q Had you tried, in fact, not to let anyone else know
16 about this relationship?

17 A Well, of course.

18 Q What did you do?

19 A Well, I never said anything about it, for one
20 thing. And I did what people do when they do the wrong
21 thing. I tried to do it where nobody else was looking at it.

22 Q How many times did you do that?

23 A Well, if you go back to my statement, I remember
24 there were a few times in '96, I can't say with any
25 certainty. There was once in early '97. After she left the

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1 White House, I do not believe I ever had any inappropriate
2 contact with her in the rest of '96. There was one occasion
3 in '97 when, regrettably, that we were together for a few
4 minutes, I think about 20 minutes, and there was
5 inappropriate contact. And after that, to the best of my
6 memory and belief, it did not occur again.

7 Q Did you tell her in the conversation about her
8 being subpoenaed -- she was upset about it, you acknowledge
9 that?

10 A (Witness nodded indicating an affirmative
11 response.)

12 Q I'm sorry, you have to respond for the record. Yes
13 or no? Do you agree that she was upset about being
14 subpoenaed?

15 A Oh, yes, sir, she was upset. She -- well, she --
16 we -- she didn't -- we didn't talk about a subpoena. But she
17 was upset. She said, I don't want to testify; I know nothing
18 about this; I certainly know nothing about sexual harassment;
19 why do they want me to testify. And I explained to her why
20 they were doing this, and why all these women were on these
21 lists, people that they knew good and well had nothing to do
22 with any sexual harassment.

23 I explained to her that it was a political lawsuit.
24 They wanted to get whatever they could under oath that was
25 damaging to me, and then they wanted to leak it in violation

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1 of the Judge's orders, and turn up their nose and say, well,
2 you can't prove we did it. Now, that was their strategy.
3 And that they were very frustrated because everything they
4 leaked so far was old news. So, they desperately were trying
5 to validate this massive amount of money they'd spent by
6 finding some new news. And --

7 Q You were familiar --

8 A -- she didn't want to be caught up in that, and I
9 didn't blame her.

10 Q You were familiar, weren't you, Mr. President, that
11 she had received a subpoena. You've already acknowledged
12 that.

13 A Yes, sir, I was.

14 Q And Mr. Jordan informed you of that, is that right?

15 A No, sir. I believe -- and I believe I testified to
16 this in my deposition. I think the first person who told me
17 that she had been subpoenaed was Bruce Lindsey. I think the
18 first -- and I was -- in this deposition, it's a little bit
19 cloudy, but I was trying to remember who the first person who
20 told me was, because the question was, again as I remember it
21 -- could we go to that in the deposition, since you asked me
22 that?

23 Q Actually, I think you're -- with all respect, I
24 think you may be confusing when Mr. Lindsey -- well, perhaps
25 Mr. Lindsey did tell you she was subpoenaed, I don't know.

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1 about this. I didn't keep records of them. I now have some
2 records. My memory is not clear and my testimony on that was
3 not clear. I just knew that I talked to Vernon at some time,
4 but I thought that Bruce was the first person who told me.

5 Q But Mr. Jordan had also told you, is that right?

6 A Yes. I now know I had a conversation with Mr.
7 Jordan about it where he said something to me about that.

8 Q And that was probably on the 19th, December 19th?

9 A Well, I know I saw him on the 19th. So, I'm quite
10 sure. And if he says he talked to me on the 19th, I believe
11 he would have better records and I certainly think he's a
12 truthful person.

13 Q Getting back to your meeting with Ms. Lewinsky on
14 December 28, you are aware that she's been subpoenaed. You
15 are aware, are you not, Mr. President, that the subpoena
16 called for the production of, among other things, all the
17 gifts that you had given Ms. Lewinsky? You were aware of
18 that on December 28th, weren't you?

19 A I'm not sure. And I understand this is an
20 important question. I did have a conversation with Ms.
21 Lewinsky at some time about gifts, the gifts I'd given her.
22 I do not know whether it occurred on the 28th, or whether it
23 occurred earlier. I do not know whether it occurred in
24 person or whether it occurred on the telephone. I have
25 searched my memory for this, because I know it's an important

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1 issue.

2 Perhaps if you -- I can tell you what I remember
3 about the conversation and you can see why I'm having trouble
4 placing the date.

5 Q Please.

6 A The reason I'm not sure it happened on the 28th is
7 that my recollection is that Ms. Lewinsky said something to
8 me like, what if they ask me about the gifts you've given me.
9 That's the memory I have. That's why I question whether it
10 happened on the 28th, because she had a subpoena with her,
11 request for production.

12 And I told her that if they asked her for gifts,
13 she'd have to give them whatever she had, that that's what
14 the law was.

15 And let me also tell you, Mr. Bittman, if you go
16 back and look at my testimony here, I actually asked the
17 Jones lawyers for help on one occasion, when they were asking
18 me what gifts I had given her, so they could -- I was never
19 hung up about this gift issue. Maybe it's because I have a
20 different experience. But, you know, the President gets
21 hundreds of gifts a year, maybe more. I have always given a
22 lot of gifts to people, especially if they give me gifts.
23 And this was no big deal to me. I mean, it's nice. I enjoy
24 it. I gave dozens of personal gifts to people last
25 Christmas. I give gifts to people all the time. Friends of

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1 mine give me gifts all the time, give me ties, give me books,
2 give me other things. So, it was just not a big deal.

3 And I told Ms. Lewinsky that, just -- I said, you
4 know, if they ask you for this, you'll have to give them
5 whatever you have. And I think, Mr. Bittman, it must have
6 happened before then, because -- either that, or Ms. Lewinsky
7 didn't want to tell me that she had the subpoena, because
8 that was the language I remember her using.

9 Q Well, didn't she tell you, Mr. President, that the
10 subpoena specifically called for a hat pin that you had
11 produced, pardon me, that you had given her?

12 A I don't remember that. I remember -- sir, I've
13 told you what I remember. That doesn't mean that my memory
14 is accurate. A lot of things have happened in the last
15 several months, and a lot of things were happening then. But
16 my memory is she asked me a general question about gifts.
17 And my memory is she asked me in the hypothetical. So, it's
18 possible that I had a conversation with her before she got a
19 subpoena. Or it's possible she didn't want to tell me that
20 was part of the subpoena. I don't know.

21 But she may have been worried about this gift
22 business. But it didn't bother me. My experience was
23 totally different. I told her, I said, look, the way these
24 things work is, when a person get a subpoena, you have to
25 give them whatever you have; that's what's the rule, that's

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1 what the law is.

2 And when I was asked about this in my deposition,
3 even though I was not trying to be helpful particularly to
4 these people that I thought were not well-motivated, or being
5 honest or even lawful in their conduct vis-a-vis me, that is,
6 the Jones legal team, I did ask them specifically to
7 enumerate the gifts. I asked them to help me because I
8 couldn't remember the specifics.

9 So, all I'm saying is, it didn't -- I wasn't
10 troubled by this gift issue.

11 Q And your testimony is that Ms. Lewinsky was
12 concerned about her turning over any gifts that you had given
13 her, and that your recommendation to her was, absolutely,
14 Monica, you have to produce everything that I have given you.
15 Is that your testimony?

16 A My testimony is what I have said, and let me
17 reiterate it. I don't want to agree to a characterization of
18 it. I want to just say what it was.

19 My testimony is that my memory is that on some day
20 in December, and I'm sorry I don't remember when it was, she
21 said, well, what if they ask me about the gifts you have
22 given me. And I said, well, if you get a request to produce
23 those, you have to give them whatever you have.

24 And it just, to me, it -- I don't -- I didn't then,
25 I don't now see this as a problem. And if she thought it was

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1 a problem, I think it -- it must have been from a, really, a
2 misapprehension of the circumstances. I certainly never
3 encouraged her not to, to comply lawfully with a subpoena.

4 Q Mr. President, if your intent was, as you have
5 earlier testified, that you didn't want anybody to know about
6 this relationship you had with Ms. Lewinsky, why would you
7 feel comfortable giving her gifts in the middle of discovery
8 in the Paula Jones case?

9 A Well, sir, for one thing, there was no existing
10 improper relationship at that time. I had, for nearly a
11 year, done my best to be a friend to Ms. Lewinsky, to be a
12 counselor to her, to give her good advice, and to help her.
13 She had, for her part, most of the time, accepted the changed
14 circumstances. She talked to me a lot about her life, her
15 job ambitions, and she continued to give me gifts. And I
16 felt that it was a right thing to do to give her gifts back.

17 I have always given a lot of people gifts. I have
18 always been given gifts. I do not think there is anything
19 improper about a man giving a woman a gift, or a woman giving
20 a man a gift, that necessarily connotes an improper
21 relationship. So, it didn't bother me.

22 I wasn't -- you know, this was December 28th. I
23 was -- I gave her some gifts. I wasn't worried about it. I
24 thought it was an all right thing to do.

25 Q What about notes and letters, cards, letters and

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1 on?

2 A Well, my recollection is that she -- that maybe
3 because of changed circumstances in her own life in 1997,
4 after there was no more inappropriate contact, that she sent
5 me more things in the mail, and that there was sort of a
6 disconnect sometimes between what she was saying and the
7 plain facts of our relationship. And I don't know what
8 caused that. But it may have been dissatisfaction with the
9 rest of her life. I don't know.

10 You know, she had, from the time I first met her,
11 talked to me about the rest of her personal life, and it may
12 be that there was some reason for that. It may be that when
13 I did the right thing and made it stick, that in a way she
14 felt a need to cling more closely, or try to get closer to
15 me, even though she knew nothing improper was happening or
16 was going to happen. I don't know the answer to that.

17 Q After you gave her the gifts on December 28th, did
18 you speak with your secretary, Ms. Currie, and ask her to
19 pick up a box of gifts that were some compilation of gifts
20 that Ms. Lewinsky would have --

21 A No, sir, I didn't do that.

22 Q -- to give to Ms. Currie?

23 A I did not do that.

24 Q When you testified in the Paula Jones case, this
25 was only two and a half weeks after you had given her these

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1 six gifts, you were asked, at page 75 in your deposition,
2 lines 2 through 5, "Well, have you ever given any gifts to
3 Monica Lewinsky?" And you answer, "I don't recall."

4 And you were correct. You pointed out that you
5 actually asked them, for prompting, "Do you know what they
6 were?"

7 A I think what I meant there was I don't recall what
8 they were, not that I don't recall whether I had given them.
9 And then if you see, they did give me these specifics, and I
10 gave them quite a good explanation here. I remembered very
11 clearly what the facts were about The Black Dog. And I said
12 that I could have given her a hat pin and a Walt Whitman
13 book; that I did not remember giving her a gold broach, which
14 was true. I didn't remember it. I may have given it to her,
15 but I didn't remember giving her one.

16 They didn't ask me about the, about the Christmas
17 gifts, and I don't know why I didn't think to say anything
18 about them. But I have to tell you again, I even invited
19 them to have a list.

20 It was obvious to me by this point in the
21 definition, in this deposition, that they had, these people
22 had access to a lot of information from somewhere, and I
23 presume it came from Linda Tripp. And I had no interest in
24 not answering their questions about these gifts. I do not
25 believe that gifts are incriminating, nor do I think they are

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1 wrong. I think it was a good thing to do. I'm not, I'm
2 still not sorry I gave Monica Lewinsky gifts.

3 Q Why did you assume that that information came from
4 Linda Tripp?

5 A I didn't then.

6 Q Well, you didn't? I thought you just testified you
7 did then?

8 A No, no, no. I said I now assume that because --

9 Q You now assume.

10 A -- of all of the subsequent events. I didn't know.
11 I just knew that --

12 Q Let me ask you about --

13 A -- that somebody had access to some information and
14 they may have known more about this than I did.

15 Q Let me ask you about the meeting you had with Betty
16 Currie at the White House on Sunday, January 18 of this year,
17 the day after your deposition. First of all, you didn't --
18 Mrs. Currie, your secretary of six-some years, you never
19 allowed her, did you, to watch whatever intimate activity you
20 did with Ms. Lewinsky, did you?

21 A No, sir, not to my knowledge.

22 Q And as far as you know, she couldn't hear anything
23 either, is that right?

24 A There were a couple of times when Monica was there
25 when I asked Betty to be places where she could hear, because

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1 her, right, might be a question. And what I might have meant
2 by that is, in the Oval Office complex.

3 Could --

4 Q Well, you knew the answer to that, didn't you?

5 A We've been going for more than an hour. Would you
6 mind if we took a break? I need to go to the restroom.

7 MR. BITTMAN: Let's take a break.

8 MR. KENDALL: It's 2:38.

9 (Whereupon, the proceedings were recessed from 2:38 p.m.
10 until 2:48 p.m.)

11 MR. KENDALL: It is 2:38 -- sorry, 2:48.

12 BY MR. WISENBERG:

13 Q Mr. President, I want to, before I go into a new
14 subject area, briefly go over something you were talking
15 about with Mr. Bittman.

16 The statement of your attorney, Mr. Bennett, at the
17 Paula Jones deposition, "Counsel is fully aware" -- it's page
18 54, line 5 -- "Counsel is fully aware that Ms. Lewinsky has
19 filed, has an affidavit which they are in possession of
20 saying that there is absolutely no sex of any kind in any
21 manner, shape or form, with President Clinton".

22 That statement is made by your attorney in front of
23 Judge Susan Webber Wright, correct?

24 A That's correct.

25 Q That statement is a completely false statement.

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1 Whether or not Mr. Bennett knew of your relationship with Ms.
2 Lewinsky, the statement that there was "no sex of any kind in
3 any manner, shape or form, with President Clinton," was an
4 utterly false statement. Is that correct?

5 A It depends on what the meaning of the word "is" is.
6 If the -- if he -- if "is" means is and never has been, that
7 is not -- that is one thing. If it means there is none, that
8 was a completely true statement.

9 But, as I have testified, and I'd like to testify
10 again, this is -- it is somewhat unusual for a client to be
11 asked about his lawyer's statements, instead of the other way
12 around. I was not paying a great deal of attention to this
13 exchange. I was focusing on my own testimony.

14 And if you go back and look at the sequence of
15 this, you will see that the Jones lawyers decided that this
16 was going to be the Lewinsky deposition, not the Jones
17 deposition. And, given the facts of their case, I can
18 understand why they made that decision. But that is not how
19 I prepared for it. That is not how I was thinking about it.

20 And I am not sure, Mr. Wisenberg, as I sit here
21 today, that I sat there and followed all these interchanges
22 between the lawyers. I'm quite sure that I didn't follow all
23 the interchanges between the lawyers all that carefully. And
24 I don't really believe, therefore, that I can say Mr.
25 Bennett's testimony or statement is testimony and is

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1 imputable to me. I didn't -- I don't know that I was even
2 paying that much attention to it.

3 Q You told us you were very well prepared for the
4 deposition.

5 A No. I said I was very well prepared to talk about
6 Paula Jones and to talk about Kathleen Willey, because she
7 had made a related charge. She was the only person that I
8 think I was asked about who had anything to do with anything
9 that would remotely approximate sexual harassment. The rest
10 of this looked to me like it was more of a way to harass me.

11 Q You are the President of the United States and your
12 attorney tells a United States District Court Judge that
13 there is no sex of any kind, in any way, shape or form,
14 whatsoever. And you feel no obligation to do anything about
15 that at that deposition, Mr. President?

16 A I have told you, Mr. Wisenberg, I will tell you for
17 a third time. I am not even sure that when Mr. Bennett made
18 that statement that I was concentrating on the exact words he
19 used.

20 Now, if someone had asked me on that day, are you
21 having any kind of sexual relations with Ms. Lewinsky, that
22 is, asked me a question in the present tense, I would have
23 said no. And it would have been completely true.

24 Q Was Mr. Bennett aware of this tense-based
25 distinction you are making now --

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1 A I don't --

2 MR. KENDALL: I'm going to object to any questions
3 about communications with private counsel.

4 MR. WISENBERG: Well, the witness has already
5 testified, I think, that Mr. Bennett didn't know about the
6 inappropriate relationship with Ms. Lewinsky. I guess --

7 THE WITNESS: Well, you'll have to ask him that,
8 you know. He was not a sworn witness and I was not paying
9 that close attention to what he was saying. I've told you
10 that repeatedly. I was -- I don't -- I never even focused on
11 that until I read it in this transcript in preparation for
12 this testimony.

13 When I was in there, I didn't think about my
14 lawyers. I was, frankly, thinking about myself and my
15 testimony and trying to answer the questions.

16 BY MR. WISENBERG:

17 Q I just want to make sure I understand, Mr.
18 President. Do you mean today that because you were not
19 engaging in sexual activity with Ms. Lewinsky during the
20 deposition that the statement of Mr. Bennett might be
21 literally true?

22 A No, sir. I mean that at the time of the
23 deposition, it had been -- that was well beyond any point of
24 improper contact between me and Ms. Lewinsky. So that anyone
25 generally speaking in the present tense, saying there is not

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1 an improper relationship, would be telling the truth if that
2 person said there was not, in the present tense; the present
3 tense encompassing many months. That's what I meant by that.

4 Not that I was -- I wasn't trying to give you a
5 cute answer, that I was obviously not involved in anything
6 improper during a deposition. I was trying to tell you that
7 generally speaking in the present tense, if someone said
8 that, that would be true. But I don't know what Mr. Bennett
9 had in his mind. I don't know. I didn't pay any attention
10 to this colloquy that went on. I was waiting for my
11 instructions as a witness to go forward. I was worried about
12 my own testimony.

13 Q I want to go back to some questions about Mr.
14 Jordan and we are going to touch a little bit on the December
15 19th meeting and some others. Mr. Jordan is a long-time
16 friend of yours, is that correct, Mr. President?

17 A Yes, sir. We've been friends probably 20 years,
18 maybe more.

19 Q You said you consider him to be a truthful person,
20 correct?

21 A I do.

22 Q If Mr. Jordan has told us that he visited you in
23 the Residence on the night of the 19th, after a White House
24 holiday dinner, to discuss Monica Lewinsky and her subpoena
25 with you, do you have any reason to doubt it?

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1 those details. I was focused on the fact that Monica went to
2 meet with Vernon after Betty helped him set it up, and had
3 subsequent meetings to talk about her move to New York.

4 Now, keep in mind at this time, at this time, until
5 this date here when it's obvious that something funny's going
6 on here and there's some sort of a gotcha game at work in
7 this deposition, until this date, I didn't know that Ms.
8 Lewinsky's deposition [sic] wasn't going to be sufficient for
9 her to avoid testifying. I didn't, you know --

10 MR. KENDALL: Excuse me, Mr. President, I think --

11 THE WITNESS: So, all these details --

12 MR. KENDALL: -- you mean her affidavit.

13 BY MR. WISENBERG:

14 Q You mean her affidavit?

15 A Excuse me. I'm sorry. Her affidavit. Thank you.

16 So, I don't necessarily remember all the details of
17 all these questions you're asking me, because there was a lot
18 of other things going on, and at the time they were going on,
19 until all this came out, this was not the most important
20 thing in my life. This was just another thing in my life.

21 Q But Vernon Jordan met with you, sir, and he
22 reported that he had met with Monica Lewinsky, and the
23 discussion was about the lawsuit, and you didn't inform,
24 under oath, the Court of that in your deposition?

25 A I gave the best answer I could, based on the best

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1 memory I had at the time they asked me the question. That's
2 the only answer I can give you, sir.

3 Q And before --

4 A And I think I may have been confused in my memory,
5 because I've also talked to him on the phone about what he
6 said about whether he talked to her or met with her. That's
7 all I can tell you.

8 But, let me say again, I don't have the same view
9 about this deposition -- I mean, this affidavit -- that I
10 think you do. I felt very strongly that Ms. Lewinsky and
11 everybody else that didn't know anything about Paula Jones
12 and anything about sexual harassment, that she and others
13 were themselves being harassed for political purposes, in the
14 hope of getting damaging information that the Jones lawyers
15 could unlawfully leak.

16 Now, I believed then, I believe today, that she
17 could execute an affidavit which, under reasonable
18 circumstances with fair-minded, non politically-oriented
19 people, would result in her being relieved of the burden to
20 be put through the kind of testimony that, thanks to Linda
21 Tripp's work with you and with the Jones lawyers, she would
22 have been put through. I don't think that's dishonest. I
23 don't think that's illegal. I think what they were trying to
24 do to her and all these other people, who knew nothing about
25 sexual harassment, was outrageous, just so they could hurt "

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1 politically.

2 So, I just don't have the same attitude about it
3 that you do.

4 Q Well, you're not telling our grand jurors that
5 because you think the case was a political case or a setup,
6 Mr. President, that that would give you the right to commit
7 perjury or --

8 A No, sir.

9 Q -- not to tell the full truth?

10 A No, sir. In the face of their, the Jones lawyers,
11 the people that were questioning me, in the face of their
12 illegal leaks, their constant, unrelenting illegal leaks in a
13 lawsuit that I knew and, by the time this deposition and this
14 discovery started, they knew was a bogus suit on the law and
15 a bogus suit on the facts.

16 Q The question is --

17 A In the face of that, I knew that in the face of
18 their illegal activity, I still had to behave lawfully. But
19 I wanted to be legal without being particularly helpful. I
20 thought that was, that was what I was trying to do. And this
21 is the first -- you are the first persons who ever suggested
22 to me that, that I should have been doing their lawyers' work
23 for them, when they were perfectly free to ask follow-up
24 questions. On one or two occasions, Mr. Bennett invited them
25 to ask follow-up questions.

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1 It now appears to me they didn't because they were
2 afraid I would give them a truthful answer, and that there
3 had been some communication between you and Ms. Tripp and
4 them, and they were trying to set me up and trick me. And
5 now you seem to be complaining that they didn't do a good
6 enough job.

7 I did my best, sir, at this time. I did not know
8 what I now know about this. A lot of other things were going
9 on in my life. Did I want this to come out? No. Was I
10 embarrassed about it? Yes. Did I ask her to lie about it?
11 No. Did I believe there could be a truthful affidavit?
12 Absolutely.

13 Now, that's all I know to say about this. I will
14 continue to answer your questions as best I can.

15 Q You're not going back on your earlier statement
16 that you understood you were sworn to tell the truth, the
17 whole truth, and nothing but the truth to the folks at that
18 deposition, are you, Mr. President?

19 A No, sir, but I think we might as well put this out
20 on the table. You tried to get me to give a broader
21 interpretation to my oath than just my obligation to tell the
22 truth. In other words, you tried to say, even though these
23 people are treating you in an illegal manner in illegally
24 leaking these depositions, you should be a good lawyer for
25 them. And if they don't have enough sense to write -- to ask

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1 a question, and even if Mr. Bennett invited them to ask
2 follow-up questions, if they didn't do it, you should have
3 done all their work for them.

4 Now, so I will admit this, sir. My goal in this
5 deposition was to be truthful, but not particularly helpful.
6 I did not wish to do the work of the Jones lawyers. I
7 deplored what they were doing. I deplored the innocent
8 people they were tormenting and traumatizing. I deplored
9 their illegal leaking. I deplored the fact that they knew,
10 once they knew our evidence, that this was a bogus lawsuit,
11 and that because of the funding they had from my political
12 enemies, they were putting ahead. I deplored it.

13 But I was determined to walk through the mine field
14 of this deposition without violating the law, and I believe I
15 did.

16 Q You are not saying, are you, Mr. President, in
17 terms of doing the work for the Jones folks, the Jones
18 lawyers, that you could, you could say, as part of your not
19 helping them, "I don't know" to a particular question, when
20 you really knew, and that it was up to them -- even if you
21 really knew the answer, it was up to them to do the follow-
22 up, that you kind of had a one free "I don't know" --

23 A No, sir.

24 Q If I could finish up? I've been very patient, Mr.
25 President, in letting you finish.

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1 You didn't think you had a free shot to say, "I
2 don't know", or "I don't recall", but when you really did
3 know and you did recall, and it was just up to them, even if
4 you weren't telling the truth, to do a follow-up and to catch
5 you?

6 A No, sir, I'm not saying that. And if I could give
7 you one example? That's why I felt that I had to come back
8 to that question where I said, I don't know that, and talk
9 about Bruce Lindsey, because I was trying, I was honestly
10 trying to remember how I had first heard this. I wasn't hung
11 up about talking about this.

12 All I'm saying is, the -- let me say something
13 sympathetic to you. I've been pretty tough. So, let me say
14 something sympathetic.

15 All of you are intelligent people. You've worked
16 hard on this. You've worked for a long time. You've gotten
17 all the facts. You've seen a lot of evidence that I haven't
18 seen. And it's, it's an embarrassing and personally painful
19 thing, the truth about my relationship with Ms. Lewinsky.

20 So, the natural assumption is that while all this
21 was going on, I must have been focused on nothing but this;
22 therefore, I must remember everything about it in the
23 sequence and form in which it occurred. All I can tell you
24 is, I was concerned about it. I was glad she saw a lawyer.
25 I was glad she was doing an affidavit. But there were a lot

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1 of other things going on, and I don't necessarily remember it
2 all. And I don't know if I can convince you of that.

3 But I tried to be honest with you about my mindset,
4 about this deposition. And I'm just trying to explain that I
5 don't have the memory that you assume that I should about
6 some of these things.

7 Q I want to talk to you for a bit, Mr. President,
8 about the incident that happened at the Northwest Gate of the
9 White House on December 5th -- sorry, December 6th, 1997. If
10 you would give me just a moment?

11 That was a -- let me ask you first. In early
12 nineteen -- in early December 1997, the Paula Jones case was
13 pending, correct?

14 A Yes, sir.

15 Q You were represented by Mr. Bennett, of course?

16 A That's correct.

17 Q In that litigation?

18 A Yes, I did.

19 Q How --

20 A He was.

21 Q I'm sorry. Go ahead.

22 A No, no. Yes, he was representing me.

23 Q How often did you talk to him or meet with him, if
24 you can just recall, at that time in the litigation?

25 A Well, we met, I would say -- I wish Mr. Ruff were

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1 Do you recall meeting with him around January 23rd,
2 1998, a Friday a.m. in your study, two days after The
3 Washington Post story, and extremely explicitly telling him
4 that you didn't have, engage in any kind of sex, in any way,
5 shape or form, with Monica Lewinsky, including oral sex?

6 A I meet with John Podesta almost every day. I meet
7 with a number of people. The only thing I -- what happened
8 in the couple of days after what you did was revealed, is a
9 blizzard to me. The only thing I recall is that I met with
10 certain people, and a few of them I said I didn't have sex
11 with Monica Lewinsky, or I didn't have an affair with her or
12 something like that. I had a very careful thing I said, and
13 I tried not to say anything else.

14 And it might be that John Podesta was one of them.
15 But I do not remember this specific meeting about which you
16 asked, or the specific comments to which you refer. And --

17 Q You don't remember --

18 A -- seven months ago, I'd have no way to remember,
19 no.

20 Q You don't remember denying any kind of sex in any
21 way, shape or form, and including oral sex, correct?

22 A I remember that I issued a number of denials to
23 people that I thought needed to hear them, but I tried to be
24 careful and to be accurate, and I do not remember what I said
25 to John Podesta.

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1 Q Surely, if you told him that, that would be a
2 falsehood, correct?

3 A No, I didn't say that, sir. I didn't say that at
4 all. That is not covered by the definition and I did not
5 address it in my statement.

6 Q Well, let me ask you then. If you told him --
7 perhaps he thought it was covered, I don't know. But if you
8 told him, if you denied to him sex in any way, shape or form,
9 kind of similar to what Mr. Bennett did at the deposition,
10 including oral sex, wouldn't that have been a falsehood?

11 A Now, Mr. Wisenberg, I told you in response to a
12 grand juror's question, you asked me did I believe that oral
13 sex performed on the person being deposed was covered by that
14 definition, and I said no. I don't believe it's covered by
15 the definition.

16 I said you are free to conclude that I did not do
17 things that I believe were covered by the definition, and you
18 have asked me a number of questions and I have acknowledged
19 things that I believe are covered by the definition. Since
20 that was not covered by the definition, I want to fall back
21 on my statement.

22 Look, I'm not trying to be evasive here. I'm
23 trying to protect my privacy, my family's privacy, and I'm
24 trying to stick to what the deposition was about. If the
25 deposition wasn't about this and didn't cover it, then I

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1 don't believe that I should be required to go beyond my
2 statement.

3 Q Mr. President, it's not our intent to embarrass
4 you. But since we have to look, among other things, at
5 obstruction of justice, questions of obstruction of justice
6 and perjury, the answer to some of these delicate and
7 unfortunate questions are absolutely required. And that is
8 the purpose that we have to ask them for.

9 A It's not --

10 Q I'm unaware of any --

11 A Mr. Wisenberg, with respect, you don't need to know
12 the answer for that, if the answer, no matter what the answer
13 is, wouldn't constitute perjury because it wasn't sexual
14 relations as defined by the Judge.

15 Q Mister --

16 A The only reason you need to know that is for some
17 other reason. It couldn't have anything to do with perjury.

18 Q Mr. President, one of the, one of the nice things
19 about -- one of the normal things about an investigation and
20 a grand jury investigation is that the grand jurors and the
21 prosecutors get to ask the questions unless they are
22 improper, and unless there is a legal basis.

23 As I understand from your answers, there is no
24 legal basis for which you decline to answer these questions.
25 And I'll ask you again to answer the question. unaware

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1 of any legal basis for you not to. If you told --

2 MR. KENDALL: Mr. Wisenberg, could you just restate
3 the question, please?

4 BY MR. WISENBERG:

5 Q The question is, if you told John Podesta two days
6 after the story broke something to this effect, that you
7 didn't have any kind of sex in any way, shape or form,
8 including oral sex with Ms. Lewinsky, were you telling him
9 the truth?

10 A And let me say again, with respect, this is an
11 indirect way to try to get me to testify to questions that
12 have no bearing on whether I committed perjury. You
13 apparently agree that it has no bearing --

14 Q Oh, I don't --

15 A -- no bearing on whether I --

16 Q I don't agree.

17 A -- committed perjury.

18 Q Mr. President, I'm sorry, with respect, I don't
19 agree with that. I'm not going to argue with you about it.
20 I just am going to ask you again, in fact direct you to
21 answer the question.

22 A I'm not going to answer that question, because I
23 believe it's a question about conduct that, whatever the
24 answer to it is, would, does not bear on the perjury because
25 oral sex performed on the deponent under this definition is

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1 not sexual relations. It is not covered by this definition.

2 MR. KENDALL: The witness is not declining to tell
3 you anything he said to John Podesta.

4 BY MR. WISENBERG:

5 Q You denied the --

6 MR. WISENBERG: The witness is not declining to
7 tell me anything?

8 BY MR. WISENBERG:

9 Q Did you deny oral sex in any way, shape or form, to
10 John Podesta?

11 A I told you, sir, before, and I will say again, in
12 the aftermath of this story breaking, and what was told about
13 it, the next two days, next three days are just a blur to me.
14 I don't remember to whom I talked, when I talked to them, or
15 what I said.

16 Q So, you are not declining to answer, you just don't
17 remember?

18 A I honestly don't remember, no.

19 Q Okay.

20 A I'm not saying that anybody who had a contrary
21 memory is wrong. I do not remember.

22 Q Do you recall denying any sexual relationship with
23 Monica Lewinsky to the following people: Harry Thomasson,
24 Erskine Bowles, Harold Ickes, Mr. Podesta, Mr. Blumenthal,
25 Mr. Jordan, Ms. Betty Currie? Do you recall denying any

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1 sexual relationship with Monica Lewinsky to those
2 individuals?

3 A I recall telling a number of those people that I
4 didn't have, either I didn't have an affair with Monica
5 Lewinsky or didn't have sex with her. And I believe, sir,
6 that -- you'll have to ask them what they thought. But I was
7 using those terms in the normal way people use them. You'll
8 have to ask them what they thought I was saying.

9 Q If they testified that you denied sexual relations
10 or relationship with Monica Lewinsky, or if they told us that
11 you denied that, do you have any reason to doubt them, in the
12 days after the story broke; do you have any reason to doubt
13 them?

14 A No. The -- let me say this. It's no secret to
15 anybody that I hoped that this relationship would never
16 become public. It's a matter of fact that it had been many,
17 many months since there had been anything improper about it,
18 in terms of improper contact. I --

19 Q Did you deny it to them or not, Mr. President?

20 A Let me finish. So, what -- I did not want to
21 mislead my friends, but I wanted to find language where I
22 could say that. I also, frankly, did not want to turn any of
23 them into witnesses, because I -- and, sure enough, they all
24 became witnesses.

25 Q Well; you knew they might be --

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1 A And so --

2 Q -- witnesses, didn't you?

3 A And so I said to them things that were true about
4 this relationship. That I used -- in the language I used, I
5 said, there's nothing going on between us. That was true. I
6 said, I have not had sex with her as I defined it. That was
7 true. And did I hope that I would never have to be here on
8 this day giving this testimony? Of course.

9 But I also didn't want to do anything to complicate
10 this matter further. So, I said things that were true. They
11 may have been misleading, and if they were I have to take
12 responsibility for it, and I'm sorry.

13 Q It may have been misleading, sir, and you knew
14 though, after January 21st when the Post article broke and
15 said that Judge Starr was looking into this, you knew that
16 they might be witnesses. You knew that they might be called
17 into a grand jury, didn't you?

18 A That's right. I think I was quite careful what I
19 said after that. I may have said something to all these
20 people to that effect, but I'll also -- whenever anybody
21 asked me any details, I said, look, I don't want you to be a
22 witness or I turn you into a witness or give you information
23 that could get you in trouble. I just wouldn't talk. I, by
24 and large, didn't talk to people about this.

25 Q If all of these people -- let's leave out Mrs.

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1 Currie for a minute. Vernon Jordan, Sid Blumenthal, John
2 Podesta, Harold Ickes, Erskine Bowles, Harry Thomasson, after
3 the story broke, after Judge Starr's involvement was known on
4 January 21st, have said that you denied a sexual relationship
5 with them. Are you denying that?

6 A No.

7 Q And you've told us that you --

8 A I'm just telling you what I meant by it. I told
9 you what I meant by it when they started this deposition.

10 Q You've told us now that you were being careful, but
11 that it might have been misleading. Is that correct?

12 A It might have been. Since we have seen this four-
13 year, \$40-million-investigation come down to parsing the
14 definition of sex, I think it might have been. I don't think
15 at the time that I thought that's what this was going to be
16 about.

17 In fact, if you remember the headlines at the time,
18 even you mentioned the Post story. All the headlines were --
19 and all the talking, people who talked about this, including
20 a lot who have been quite sympathetic to your operation,
21 said, well, this is not really a story about sex, or this is
22 a story about subornation of perjury and these talking
23 points, and all this other stuff.

24 So, what I was trying to do was to give them
25 something they could -- that would be true, even if

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1 A I think the answer is, I think, yes. At some point
2 I talked to Erskine Bowles about this.

3 Q Okay.

4 A I do not know what the date was. At some point I
5 did talk to him.

6 Q And if Erskine Bowles has told us that he told John
7 Podesta to carry out your wishes, and John Podesta states
8 that it was three or four days before your deposition, which
9 would be the 13th or the 14th, are you in a position to deny
10 that?

11 A The 13th or 14th of?

12 Q January, as to date.

13 A I don't know. I don't know when the date was.

14 Q Okay.

15 A I'm not in a position to deny it. I won't deny it.
16 I'm sure that they are both truthful men. I don't know when
17 the date was.

18 Q Do you recall asking Erskine Bowles to do that?

19 A I recall talking to Erskine Bowles about that, and
20 my recollection is, sir, that Ms. Lewinsky was moving to New
21 York, wanted to get a job in the private sector; was
22 confident she would get a good recommendation from the
23 Defense Department; and was concerned that because she had
24 been moved from the Legislative Affairs Office, transferred
25 to the Defense Department, that her ability to get a job

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1 might be undermined by a bad recommendation from the
2 Legislative Affairs Office.

3 So, I asked Erskine if we could get her a
4 recommendation that just was at least neutral, so that if she
5 had a good recommendation from the Defense Department it
6 wouldn't prevent her from getting a job in the private
7 sector.

8 Q If Mr. Bowles has told us that, in fact, you told
9 him that she already had a job and had already listed Mr.
10 Hilley as a reference and wanted him to be available as a
11 recommendation, would you be in -- is that inconsistent with
12 your memory?

13 A A little bit, but I think -- my memory is that when
14 you're, when you get a job like that you have to give them a
15 resume, which says where you've worked and who your
16 supervisor was. And I think that that's my recollection. My
17 recollection is that -- slightly different from that.

18 Q And who was it that asked you to do that on Monica
19 Lewinsky's behalf?

20 A I think she did. You know, she tried for months
21 and months to get a job back in the White House, not so much
22 in the West Wing but somewhere in the White House complex,
23 including the Old Executive Office Building. And she talked
24 to Marsha Scott, among others. She very much wanted to come
25 back. And she interviewed for some jobs but never got one.

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1 She was, from time to time, upset about it.

2 And I think what she was afraid of is that she
3 couldn't get a -- from the minute she left the White House
4 she was worried about this. That if she didn't come back to
5 the White House and work for awhile and get a good job
6 recommendation, that no matter how well she had done at the
7 Pentagon it might hurt her future employment prospects.

8 Well, it became obvious that, you know, her mother
9 had moved to New York. She wanted to go to New York. She
10 wasn't going to get a job in the White House. So, she wanted
11 to get a job in the private sector, and said, I hope that I
12 won't get a letter out of the Legislative Affairs Office that
13 will prevent my getting a job in the private sector. And
14 that's what I talked to Erskine about.

15 Now, that's my entire memory of this.

16 Q All right. I want to go back briefly to the
17 December 28th conversation with Ms. Lewinsky. I believe you
18 testified to the effect that she asked you, what if they ask
19 me about gifts you gave me. My question to you is, after
20 that statement by her, did you ever have a conversation with
21 Betty Currie about gifts, or picking something up from Monica
22 Lewinsky?

23 A I don't believe I did, sir. No.

24 Q You never told her anything to this effect, that
25 Monica has something to give you?

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1 A No, sir.

2 Q That is to say, Betty Currie?

3 A No, sir, I didn't. I don't have any memory of that

4 whatever.

5 Q And so you have no knowledge that, or you had no

6 knowledge at the time, that Betty Currie went and picked up,

7 your secretary went and picked up from Monica Lewinsky items

8 that were called for by the Jones subpoena and hid them under

9 her bed? You had no knowledge that anything remotely like

10 that was going to happen?

11 A I did not. I did not know she had those items, I

12 believe, until that was made public.

13 Q And you agree with me that that would be a very

14 wrong thing to do, to hide evidence in a civil case, or any

15 case? Isn't that true?

16 A Yes. I don't know that, that Ms. Currie knew that

17 that's what she had at all. But --

18 Q I'm not saying she did. I'm just saying --

19 A I had -- it is, if Monica Lewinsky did that after

20 they had been subpoenaed and she knew what she was doing, she

21 should not have done that.

22 Q And if you knew, you --

23 A And I --

24 Q -- shouldn't have done it?

25 A Indeed, I, myself, told her, if they ask you for

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1 gifts you have to give them what you have. And I don't
2 understand if, in fact, she was worried about this, why she
3 was so worried about it. It was no big deal.

4 Q I want to talk about a December 17th phone
5 conversation you had with Monica Lewinsky at approximately
6 2:00 a.m. Do you recall making that conversation and telling
7 her initially about the death of Betty's brother, but then
8 telling her that she was on the witness list, and that it
9 broke your heart that she was on the witness list?

10 A No, sir, I don't, but it would -- it, it would --
11 it is quite possible that that happened, because, if you
12 remember, earlier in this meeting you asked me some questions
13 about what I'd said to Monica about testimony and affidavits,
14 and I was struggling to try to remember whether this happened
15 in a meeting or a phone call.

16 Now, I remember I called her to tell her Betty's
17 brother had died. I remember that. And I know it was in the
18 middle of December, and I believe it was before Monica had
19 been subpoenaed. So, I think it is quite possible that if I
20 called her at that time and had not talked to her since the
21 6th -- and you asked me this earlier -- I believe when I saw
22 her on the 6th, I don't think I knew she was on the witness
23 list then, then it's quite possible I would say something
24 like that. I don't have any memory of it, but I certainly
25 wouldn't dispute that I might have said that.

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1 Q And in that conversation, or in any conversation in
2 which you informed her she was on the witness list, did you
3 tell her, you know, you can always say that you were coming
4 to see Betty or bringing me letters? Did you tell her
5 anything like that?

6 A I don't remember. She was coming to see Betty. I
7 can tell you this. I absolutely never asked her to lie.

8 Q Sir, every time she came to see Betty and you were
9 in the Oval Office, she was coming to see you, too, wasn't
10 she, or just about every time?

11 A I think just about every time. I don't think every
12 time. I think there was a time or two where she came to see
13 Betty when she didn't see me.

14 Q So, do you remember telling her any time, any time
15 when you told her, or after you told her that she was on the
16 witness list, something to this effect: You know, you can
17 always say you were coming to see Betty, or you were bringing
18 me letters?

19 A I don't remember exactly what I told her that
20 night.

21 Q Did you --

22 A I don't remember that. I remember talking about
23 the nature of our relationship, how she got in. But I also
24 will tell you that I felt quite comfortable that she could
25 have executed a truthful affidavit, which would not have

ONE END OF MESSAGE IS ASSOCIATED WITH SHEET 20884

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1 disclosed the embarrassing details of the relationship that
2 we had had, which had been over for many, many months by the
3 time this incident occurred.

4 Q Did you tell her anytime in December something to
5 that effect: You know, you can always say that you were
6 coming to see Betty or you were bringing me letters? Did you
7 say that, or anything like that, in December '97 or January
8 '98, to Monica Lewinsky?

9 A Well, that's a very broad question. I do not
10 recall saying anything like that in connection with her
11 testimony. I could tell you what I do remember saying, if
12 you want to know. But I don't -- we might have talked about
13 what to do in a non legal context at some point in the past,
14 but I have no specific memory of that conversation.

15 I do remember what I said to her about the possible
16 testimony.

17 Q You would agree with me, if you did say something
18 like that to her, to urge her to say that to the Jones
19 people, that that would be part of an effort to mislead the
20 Jones people, no matter how evil they are and corrupt?

21 A I didn't say they were evil. I said what they were
22 doing here was wrong, and it was:

23 Q Wouldn't that be misleading?

24 A Well, again, you are trying to get me to
25 characterize something that I'm -- that I don't know if I

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1 said or not, without knowing whether the whole, whether the
2 context is complete or not. So, I would have to know, what
3 was the context, what were all the surrounding facts.

4 I can tell you this: I never asked Ms. Lewinsky to
5 lie. The first time that she raised with me the possibility
6 that she might be a witness or I told her -- you suggested
7 the possibility in this December 17th timeframe -- I told her
8 she had to get a lawyer. And I never asked her to lie.

9 Q Did you ever say anything like that, you can always
10 say that you were coming to see Betty or bringing me letters?
11 Was that part of any kind of a, anything you said to her or a
12 cover story, before you had any idea she was going to be part
13 of Paula Jones?

14 A I might well have said that.

15 Q Okay.

16 A Because I certainly didn't want this to come out,
17 if I could help it. And I was concerned about that. I was
18 embarrassed about it. I knew it was wrong. And, you know,
19 of course, I didn't want it to come out. But --

20 Q But you are saying that you didn't say anything --
21 I want to make sure I understand. Did you say anything like
22 that once you knew or thought she might be a witness in the
23 Jones case? Did you repeat that statement, or something like
24 it to her?

25 A Well, again, I don't recall, and I don't recall

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1 whether I might have done something like that, for example,
2 if somebody says, what if the reporters ask me this, that or
3 the other thing. I can tell you this: In the context of
4 whether she could be a witness, I have a recollection that
5 she asked me, well, what do I do if I get called as a
6 witness, and I said, you have to get a lawyer. And that's
7 all I said. And I never asked her to lie.

8 Q Did you tell her to tell the truth?

9 A Well, I think the implication was she would tell
10 the truth. I've already told you that I felt strongly that
11 she could issue, that she could execute an affidavit that
12 would be factually truthful, that might get her out of having
13 to testify. Now, it obviously wouldn't if the Jones people
14 knew this, because they knew that if they could get this and
15 leak it, it would serve their larger purposes, even if the
16 judge ruled that she couldn't be a witness in the case. The
17 judge later ruled she wouldn't be a witness in the case. The
18 judge later ruled the case had no merit.

19 So, I knew that. And did I hope she'd be able to
20 get out of testifying on an affidavit? Absolutely. Did I
21 want her to execute a false affidavit? No, I did not.

22 Q If Monica Lewinsky has stated that her affidavit
23 that she didn't have a sexual relationship with you is, in
24 fact, a lie, I take it you disagree with that?

25 A No. I told you before what I thought the issue was

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1 there. I think the issue is how do you define sexual
2 relationship. And there was no definition imposed on her at
3 the time she executed the affidavit. Therefore, she was free
4 to give it any reasonable meaning.

5 Q And if she says she was lying --

6 A And I believe --

7 Q -- under your common sense ordinary meaning that
8 you talked about earlier, Mr. President, that most Americans
9 would have, if she says sexual relationship, saying I didn't
10 have one was a lie because I had oral sex with the President,
11 I take it, you would disagree with that?

12 A Now, we're back to where we started and I have to
13 invoke my statement. But, let me just say one thing. I've
14 read a lot, and obviously I don't know whether any of it's
15 accurate, about what she said, and what purports to be on
16 those tapes.

17 And this thing -- and I searched my own memory.
18 This reminds me, to some extent, of the hearings when
19 Clarence Thomas and Anita Hill were both testifying under
20 oath. Now, in some rational way, they could not have both
21 been telling the truth, since they had directly different
22 accounts of a shared set of facts. Fortunately, or maybe you
23 think unfortunately, there was no special prosecutor to try
24 to go after one or the other of them, to take sides and try
25 to prove one was a liar. And so, Judge Thomas was able to go

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1 on and serve on the Supreme Court.

2 What I learned from that, I can tell you that I was
3 a citizen out there just listening. And when I heard both of
4 them testify, what I believed after it was over, I believed
5 that they both thought they were telling the truth.

6 This is -- you're dealing with, in some ways, the
7 most mysterious area of human life. I'm doing the best I can
8 to give you honest answers.

9 Q Mr. President --

10 A And that's all I can say.

11 Q I'm sorry.

12 A And, you know, those people both testified under
13 oath. So, if there'd been a special prosecutor, they could,
14 one of them could have gone after Anita Hill, another could
15 have gone after Clarence Thomas. I thank God there was no
16 such thing then, because I don't believe that it was a proper
17 thing.

18 Q One of --

19 A And I think they both thought they were telling the
20 truth. So, maybe Ms. Lewinsky believes she's telling the
21 truth, and I'm glad she got her mother and herself out of
22 trouble. I'm glad you gave her that sweeping immunity. I'm
23 glad for the whole thing. I, I, I -- it breaks my heart that
24 she was ever involved in this.

25 Q I want to go back to a question about Vernon

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1 Jordan. I want to go back to late December and early
2 January, late December of '97 and early January of '98.
3 During this time, Mr. President, you are being sued for
4 sexual harassment by a woman who claims, among other things,
5 that others got benefits that she didn't because she didn't
6 have oral sex with you. While this is happening, your
7 powerful friend, Vernon Jordan, is helping to get Monica
8 Lewinsky a job and a lawyer. He's helping to get a job and a
9 lawyer for someone who had some kind of sex with you, and who
10 has been subpoenaed in the very case, the Jones case.

11 Don't you see a problem with this? Didn't you see
12 a problem with this?

13 A No. Would you like to know why?

14 Q Isn't that why -- I would. But isn't that why
15 Vernon Jordan asked you on December 19th whether or not you
16 had sexual relationships with Monica Lewinsky and why he
17 asked her, because he knew it would be so highly improper to
18 be helping her with a lawyer and a job if, in fact, she had
19 had a relationship with you?

20 A I don't know. I don't believe that at all. I
21 don't believe that at all, particularly since, even if you
22 look at the facts here in their light most unfavorable to me,
23 no one has suggested that there was any sexual harassment on
24 my part. And I don't think it was wrong to be helping her.
25 Look --

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1 Q A subpoenaed witness in a case against you?

2 A Absolutely. Look, for one thing, I had already
3 proved in two ways that I was not trying to influence her
4 testimony. I didn't order her to be hired at the White
5 House. I could have done so. I wouldn't do it. She tried
6 for months to get in. She was angry.

7 Secondly, after I --

8 Q Wasn't she kept --

9 A After I terminated the improper contact with her,
10 she wanted to come in more than she did. She got angry when
11 she didn't get in sometimes. I knew that that might make her
12 more likely to speak, and I still did it because I had to
13 limit the contact.

14 And, thirdly, let me say, I formed an opinion
15 really early in 1996, and again -- well, let me finish the
16 sentence. I formed an opinion early in 1996, once I got into
17 this unfortunate and wrong conduct, that when I stopped it,
18 which I knew I'd have to do and which I should have done a
19 long time before I did, that she would talk about it. Not
20 because Monica Lewinsky is a bad person. She's basically a
21 good girl. She's a good young woman with a good heart and a
22 good mind. I think she is burdened by some unfortunate
23 conditions of her, her upbringing. But she's basically a
24 good person.

25 But I knew that the minute there was no longer any

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1 contact, she would talk about this. She would have to. She
2 couldn't help it. It was, it was a part of her psyche. So,
3 I had put myself at risk, sir. I was not trying to buy her
4 silence or get Vernon Jordan to buy her silence. I thought
5 she was a good person. She had not been involved with me for
6 a long time in any improper way, several months, and I wanted
7 to help her get on with her life. It's just as simple as
8 that.

9 MR. WISENBERG: It's time for a break.

10 MR. KENDALL: Okay. 4:49.

11 (Whereupon, the proceedings were recessed from 4:49 p.m.
12 until 5:05 p.m.)

13 MR. KENDALL: Bob, we are at 2 hours and 55
14 minutes.

15 MR. BITTMAN: Two hours and 55 minutes, thank you.

16 BY MR. BITTMAN:

17 Q Mr. President.

18 A Mr. Bittman.

19 Q Apparently we have one hour and five minutes left,
20 if we stick to the four-hour timeframe.

21 MR. KENDALL: Plus 30 seconds.

22 MR. BITTMAN: And 30 seconds, that's right.

23 THE WITNESS: You gave me my 30 seconds' soliloquy.
24 So, I owe you 30 seconds.
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1 remember that.

2 Q Are you saying, Mr. President, that you did not
3 then say to Ms. Lewinsky that you could always say that
4 people in Legislative Affairs got you the job, or helped you
5 get it?

6 A I have no recollection of that whatever.

7 Q Are you saying you didn't say it?

8 A No, sir. I'm telling you, I want to say I don't
9 recall -- I don't have any memory of this as I sit here
10 today. And I can tell you this, I never asked her to lie. I
11 never did. And I don't have any recollection of the specific
12 thing you are saying to me.

13 Now, if I could back up, there were several times
14 when Monica Lewinsky talked to me on the telephone in 1996,
15 in person in 1997, about her being concerned about what
16 anybody would say about her transfer from the White House to
17 the Pentagon. But I remember no conversation in which she
18 was concerned about it for the reasons you just mentioned.

19 And all my memory is, she was worried about it
20 because she thought it would keep her from getting a good job
21 down the road, and she talked to me about it constantly in
22 1997. She thought, well, I'll never have my record clear
23 unless I work somewhere in the White House complex where I
24 can get a good recommendation. But in the context that you
25 mention it, I do not recall a conversation.

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all based on transcript of deposition of President Clinton

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1 Q Did you ever tell Ms. Lewinsky, or promise to her
2 that you would do your best to get her back into the White
3 House after the 1996 Presidential elections?

4 A What I told Ms. Lewinsky was that I would, I would
5 do what I could to see, if she had a good record at the
6 Pentagon, and she assured me she was doing a good job and
7 working hard, that I would do my best to see that the fact
8 that she had been sent away from the Legislative Affairs
9 section did not keep her from getting a job in the White
10 House, and that is, in fact, what I tried to do. I had a
11 conversation with Ms. Scott about it, and I tried to do that.

12 But I did not tell her I would order someone to
13 hire her, and I never did, and I wouldn't do that. It
14 wouldn't be right.

15 Q When you received the book, this gift from Monica,
16 the Presidents of the United States, this book that you liked
17 and you talked with Monica about, did it come with a note?
18 Do you remember the note that it came with, Mr. President?

19 A No, sir, I don't.

20 Q Do you remember that in the note she wrote that,
21 she expressed how much she missed you and how much she cared
22 for you, and you and she later talked about this in this
23 telephone conversation, and you said -- and she apologized
24 for putting such emotional, romantic things in this note, and
25 you said, yeah, you shouldn't have written some of those

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1 things, you shouldn't put those things down on paper? Did
2 you ever say anything like that to Ms. Lewinsky?

3 A Oh, I believe I did say something like that to Ms.
4 Lewinsky. I don't remember doing something as late as you
5 suggest. I'm not saying I didn't. I have no recollection of
6 that.

7 Keep in mind now, it had been quite a long time
8 since I had had any improper contact with her. And she was,
9 in a funny way, almost more attached to me than she had been
10 before. In '96, she had a long relationship, she said, with
11 a man whom she liked a lot. And I didn't know what else was
12 going on in her private life in '97. But she talked to me
13 occasionally about people she was going out with.

14 But normally her language at this point was, if
15 affectionate, was, was not improperly affectionate, I would
16 say. So -- but, it could have happened. I wouldn't say it
17 didn't. I just don't remember it at this late date.

18 Q Let me refer back to one of the subjects we talked
19 about at one of the earlier breaks, right before one of the
20 earlier breaks, and that is your meeting with Mrs. Currie on
21 January 18th. This is the Sunday after your deposition in
22 the Paula Jones case.

23 You said that you spoke to her in an attempt to
24 refresh your own recollection about the events involving
25 Monica Lewinsky, is that right?

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1 A Yes.

2 Q How did you making the statement, I was never alone
3 with her, right, refresh your recollection?

4 A Well, first of all, let's remember the context
5 here. I did not at that time know of your involvement in
6 this case. I just knew that obviously someone had given them
7 a lot of information, some of which struck me as accurate,
8 some of which struck me as dead wrong. But it led them to
9 write, ask me a whole series of questions about Monica
10 Lewinsky.

11 Then on Sunday morning, this Drudge report came
12 out, which used Betty's name, and I thought that we were
13 going to be deluged by press comments. And I was trying to
14 refresh my memory about what the facts were.

15 So, when I said, we were never alone, right, I
16 think I also asked her a number of other questions, because
17 there were several times, as I'm sure she would acknowledge,
18 when I either asked her to be around. I remember once in
19 particular when I was talking with Ms. Lewinsky when I asked
20 Betty to be in the, actually, in the next room in the dining
21 room, and, as I testified earlier, once in her own office.

22 But I meant that she was always in the Oval Office
23 complex, in that complex, while Monica was there. And I
24 believe that this was part of a series of questions I asked
25 her to try to quickly refresh my memory. So, I wasn't trying

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1 to get her to say something that wasn't so. And, in fact, I
2 think she would recall that I told her to just relax, go in
3 the grand jury and tell the truth when she had been called as
4 a witness.

5 Q So, when you said to Mrs. Currie that, I was never
6 alone with her, right, you just meant that you and Ms.
7 Lewinsky would be somewhere perhaps in the Oval Office or
8 many times in your back study, is that correct?

9 A That's right. We were in the back study.

10 Q And then --

11 A Keep in mind, sir, I just want to make it -- I was
12 talking about 1997. I was never, ever trying to get Betty
13 Currie to claim that on the occasions when Monica Lewinsky
14 was there when she wasn't anywhere around, that she was. I
15 would never have done that to her, and I don't think she
16 thought about that. I don't think she thought I was
17 referring to that.

18 Q Did you put a date restriction? Did you make it
19 clear to Mrs. Currie that you were only asking her whether
20 you were never alone with her after 1997?

21 A Well, I don't recall whether I did or not, but I
22 assumed -- if I didn't, I assumed she knew what I was talking
23 about, because it was the point at which Ms. Lewinsky was out
24 of the White House and had to have someone WAVE her in, in
25 order to get in the White House. And I do not believe to

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1 this day that I was -- in 1997, that she was ever there and
2 that I ever saw her unless Betty Currie was there. I don't
3 believe she was.

4 Q Do you agree with me that the statement, "I was
5 never alone with her", is incorrect? You were alone with
6 Monica Lewinsky, weren't you?

7 A Well, again, it depends on how you define alone.
8 Yes, we were alone from time to time, even during 1997, even
9 when there was absolutely no improper contact occurring.
10 Yes, that is accurate.

11 But there were also a lot of times when, even
12 though no one could see us, the doors were open to the halls,
13 on both ends of the halls, people could hear. The Navy
14 stewards could come in and out at will, if they were around.
15 Other things could be happening. So, there were a lot of
16 times when we were alone, but I never really thought we were.

17 And sometimes when we, when -- but, as far as I
18 know, what I was trying to determine, if I might, is that
19 Betty was always around, and I believe she was always around
20 where I could basically call her or get her if I needed her.

21 Q When you said to Mrs. Currie, you could see and
22 hear everything, that wasn't true either, was it, as far as
23 you knew? You've already --

24 A My memory of that --

25 Q -- testified that Betty was not there.

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1 A My memory of that was that, that she had the
2 ability to hear what was going on if she came in the Oval
3 Office from her office. And a lot of times, you know, when I
4 was in the Oval Office, she just had the door open to her
5 office. Then there was -- the door was never completely
6 closed to the hall. So, I think there was -- I'm not
7 entirely sure what I meant by that, but I could have meant
8 that she generally would be able to hear conversations, even
9 if she couldn't see them. And I think that's what I meant.

10 Now, I could have been referring not generally to
11 every time she was there, but one, one particular time I
12 remember when Ms. Lewinsky was there when I asked Betty --
13 and I'm sorry to say for reasons I don't entirely remember --
14 to actually stay in the dining room while I talked with
15 Monica. I do remember one such instance.

16 Q Well, you've already testified that this -- you did
17 almost everything you could to keep this relationship secret.
18 So, would it be fair to say -- even from Mrs. Currie. She
19 didn't know about the nature, that is, your intimate,
20 physically intimate relationship with Ms. Lewinsky, did she?

21 A As far as I know, she is unaware of what happened
22 on the, on the occasions when I saw her in 1996 when
23 something improper happened. And she was unaware of the one
24 time that I recall in 1997 when something happened.

25 I think she was quite well aware that I was

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1 determined to impose the appropriate limits on the
2 relationship when I was trying to do it. And the -- you
3 know, anybody would hope that this wouldn't become public.
4 Although I frankly, from 1996 on, always felt that if I
5 severed inappropriate contact with Ms. Lewinsky, sooner or
6 later it would get public. And I never thought it would be
7 part of the Jones case. I never even thought about that. I
8 never thought -- I certainly never thought it would be part
9 of your responsibilities.

10 Q My question was --

11 A But I did believe that she would talk about it.

12 Q My question was more simple than that. Mrs. Currie
13 did not know of the physically intimate nature of your
14 relationship, did she?

15 A I don't believe she did, no.

16 Q Okay. So, you would have done -- you tried to keep
17 that nature of the relationship from Mrs. Currie?

18 A Absolutely. I --

19 Q So, you would not have engaged in those physically
20 intimate acts if you knew that Mrs. Currie could see or hear
21 that, is that correct?

22 A That's correct. But, keep in mind, sir, I was
23 talking about 1997. That occurred, to the -- and I believe
24 that occurred only once in February of 1997. I stopped it.
25 I never should have started it, and I certainly shouldn't

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1 have started it back after I resolved not to in 1996. And I
2 was referring to 1997.

3 And I -- what -- as I say, I do not know -- her
4 memory and mine may be somewhat different. I do not know
5 whether I was asking her about a particular time when Monica
6 was upset and I asked her to stand, stay back in the dining
7 area. Or whether I was, had reference to the fact that if
8 she kept the door open to the Oval Office, because it was
9 always -- the door to the hallway was always somewhat open,
10 that she would always be able to hear something if anything
11 went on that was, you know, too loud, or whatever.

12 I do not know what I meant. I'm just trying to
13 reconcile the two statements as best I can, without being
14 sure.

15 Q There was at least one event where Mrs. Currie was
16 definitely not even in the Oval Office area, isn't that
17 right? And I think you began to testify about that before.
18 That was at the radio address.

19 A I'm not sure of that. But in that case, there was,
20 there was certainly someone else there. I don't know --

21 Q Well, why would you be testing Mrs. Currie's memory
22 about whether someone else was there?

23 A Well, I can say this. If I'm in the Oval Office --
24 my belief is that there was someone else there, somewhere in
25 the Oval Office complex. I've looked at our -- I've looked

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1 at the film. This, this night has become legendary now, you
2 know. I've looked at the, I've looked at the film we have.
3 I've looked at my schedules. I've seen the people that were
4 at the radio address.

5 I do believe that I was alone with her from 15 to
6 20 minutes. I do believe that things happened then which
7 were inappropriate. I don't remember whether Betty was there
8 or not, but I can't imagine that, since all this happened
9 more or less continuously in that time period, there must
10 have been someone who was working around the radio address
11 who stayed around somewhere. That would be my guess. I
12 don't know. I'm sorry. I don't have records about who it
13 would be. But I doubt very seriously if we were all alone in
14 that Oval Office complex then.

15 Q Mr. President, if there is a semen stain belonging
16 to you on a dress of Ms. Lewinsky's, how would you explain
17 that?

18 A Well, Mr. Bittman, I, I don't -- first of all, when
19 you asked me for a blood test, I gave you one promptly. You
20 came over here and got it. That's -- we met that night and
21 talked. So, that's a question you already know the answer
22 to. Not if, but you know whether.

23 And the main thing I can tell you is that doesn't
24 affect the opening statement I made. The opening statement I
25 made is that I had inappropriate intimate contact. I take

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1 full responsibility for it. It wasn't her fault, it was
2 mine. I do not believe that I violated the definition of
3 sexual relations I was given by directly touching those parts
4 of her body with the intent to arouse or gratify. And that's
5 all I have to say.

6 I think, for the rest, you know, you know what the
7 evidence is and it doesn't affect that statement.

8 Q Is it possible or impossible that your semen is on
9 a dress belonging to Ms. Lewinsky?

10 A I have nothing to add to my statement about it,
11 sir. You, you know whether -- you know what the facts are.
12 There's no point in a hypothetical.

13 Q Don't you know what the facts are also, Mr.
14 President?

15 A I have nothing to add to my statement, sir.

16 Q Getting back to the conversation you had with Mrs.
17 Currie on January 18th, you told her -- if she testified that
18 you told her, Monica came on to me and I never touched her,
19 you did, in fact, of course, touch Ms. Lewinsky, isn't that
20 right, in a physically intimate way?

21 A Now, I've testified about that. And that's one of
22 those questions that I believe is answered by the statement
23 that I made.

24 Q What was your purpose in making these statements to
25 Mrs. Currie, if they weren't for the purpose to try to

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1 suggest to her what she should say if ever asked?

2 A Now, Mr. Bittman, I told you, the only thing I
3 remember is when all this stuff blew up, I was trying to
4 figure out what the facts were. I was trying to remember. I
5 was trying to remember every time I had seen Ms. Lewinsky.
6 Once this thing was in Drudge, and there was this argument
7 about whether it was or was not going to be in Newsweek, that
8 was a clear signal to me, because Newsweek, frankly, was --
9 had become almost a sponsoring media outlook for the Paula
10 Jones case, and had a journalist who had been trying, so far
11 fruitlessly, to find me in some sort of wrongdoing.

12 And so I knew this was all going to come out. I
13 was trying -- I did not know at the time -- I will say again,
14 I did not know that any of you were involved. I did not know
15 that the Office of Independent Counsel was involved. And I
16 was trying to get the facts and try to think of the best
17 defense we could construct in the face of what I thought was
18 going to be a media onslaught.

19 Once you became involved, I told Betty Currie not
20 to worry, that, that she had been through a terrible time.
21 She had lost her brother. She had lost her sister. Her
22 mother was in the hospital. I said, Betty, just don't worry
23 about me. Just relax, go in there and tell the truth.
24 You'll be fine. Now, that's all there was in this context.

25 Q Did the conversations that you had with Mrs.

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1 Currie, this conversation, did it refresh your recollection
2 as to events involving Ms. Lewinsky?

3 A Well, as I remember, I do believe, in fairness,
4 that, you know, she may have felt some ambivalence about how
5 to react, because there were some times when she seemed to
6 say yes, when I'm not sure she meant yes. There was a time
7 -- it seems like there was one or two things where she said,
8 well, remember this, that or the other thing, which did
9 reflect my recollection.

10 So, I would say a little yes, and a little no.

11 Q Why was it then that two or three days later, given
12 that The Washington Post article came out on January 21st,
13 why would you have had another conversation with Betty Currie
14 asking or making the exact same statements to her?

15 A I don't know that I did. I remember having this
16 one time. I was, I was -- I don't know that I did.

17 Q If Mrs. Currie says you did, are you disputing
18 that?

19 A No, sir, I'm not disputing --

20 MR. KENDALL: Excuse me. Is your representation
21 that she testified that that conversation was -- when?

22 MR. BITTMAN: I'm not making a representation as to
23 what Mrs. Currie said. I'm asking the President if Mrs.
24 Currie testified two or three days later, that two or three
25 days after the conversation with the President on January

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1 18th, that he called her into the Oval Office and went over
2 the exact same statements that the President made to her on
3 the 18th.

4 BY MR. BITTMAN:

5 Q Is that accurate? Is that a truthful statement by
6 Mrs. Currie, if she made it?

7 A I do not remember how many times I talked to Betty
8 Currie or when. I don't. I can't possibly remember that. I
9 do remember, when I first heard about this story breaking,
10 trying to ascertain what the facts were, trying to ascertain
11 what Betty's perception was. I remember that I was highly
12 agitated, understandably, I think.

13 And then I remember when I knew she was going to
14 have to testify to the grand jury, and I, I felt terrible
15 because she had been through this loss of her sister, this
16 horrible accident Christmas that killed her brother, and her
17 mother was in the hospital. I was trying to do -- to make
18 her understand that I didn't want her to, to be untruthful to
19 the grand jury. And if her memory was different from mine,
20 it was fine, just go in there and tell them what she thought.
21 So, that's all I remember.

22 BY MR. BENNETT:

23 Q Mr. President, my name is Jackie Bennett. If I
24 understand your current line of testimony, you are saying
25 that your only interest in speaking with Ms. Currie in the

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1 widest net we can and get as much embarrassing stuff as we
2 can, and then dump it out there and see if we can make him
3 bleed. I think that's what they were trying to do.

4 Q Don't you think, sir, that they could have done
5 more damage to you politically, or in whatever context, if
6 they had understood the definition in the same way you did
7 and asked the question directly?

8 A I don't know, sir. As I said, I didn't work with
9 their lawyers in preparing this case. I knew the case was
10 wrong. I knew what our evidence was. By the time of this
11 deposition, they knew what their evidence was.

12 Their whole strategy was, well, our lawsuit's not
13 good, but maybe we can hurt him with the discovery. And, you
14 know, they did some. But it didn't amount to much.

15 And did I want, if I could, to avoid talking about
16 Monica Lewinsky? Yes, I'd give anything in the world not to
17 be here talking about it. I'd be giving -- I'd give anything
18 in the world not to have to admit what I've had to admit
19 today.

20 But if you look at my answer in the Flowers [sic]
21 deposition, at least you know I tried to carefully fit all my
22 answers within the framework there, because otherwise there
23 was no reason in the wide world for me to do anything other
24 than make the statements I'd made about Gennifer Flowers
25 since 1991, that I did not have a 12-year affair with her,

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1 and that these, the following accusations she made are false.

2 So, that's all I can tell you. I can't prove
3 anything.

4 Q But you did have a great deal of anxiety in the
5 hours and days following the end of your deposition on the
6 17th. Isn't that fair to say?

7 A Well, I had a little anxiety the next day, of
8 course, because of the Drudge Report. And I had an anxiety
9 after the deposition because it was more about Monica
10 Lewinsky than it was about Paula Jones.

11 Q The specificity of the questions relating to Monica
12 Lewinsky alarmed you, isn't that fair to say?

13 A Yes, and it bothered me, too, that I couldn't
14 remember the answers. It bothered me that I couldn't -- as
15 Mr. Wisenberg pointed out, it bothered me that I couldn't
16 remember all the answers. I did the best I could. And so I
17 wanted to know what the deal was. Sure.

18 Q Mr. President, to your knowledge, have you turned
19 over, in response to the grand jury subpoenas, all gifts that
20 Monica Lewinsky gave you?

21 A To my knowledge, I have, sir. As you know, on
22 occasion, Mr. Kendall has asked for your help in identifying
23 those gifts. And I think there were a couple that we came
24 across in our search that were not on the list you gave us,
25 that I remembered in the course of our search had been given

EXHIBIT B

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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

PAULA CORBIN JONES

VS.

WILLIAM JEFFERSON CLINTON
and DANNY FERGUSON

CIVIL ACTION NO.

LR-C-94-290

Judge Susan Webber Wright

* * * * *
VIDEOTAPED ORAL DEPOSITION OF
WILLIAM JEFFERSON CLINTON
* * * * *

849-DC-00000351

January 17, 1998

Washington, D.C.

Denise K. McNamara, CSR, RPR, RMR

CERTIFIED COPY

William Jefferson Clinton

1 A. Good morning.

2 Q. My name is Jim Fisher, sir, and I'm an
3 attorney from Dallas, Texas, and I represent the
4 Plaintiff, Paula Jones, in this case. Do you
5 understand who I am and who I'm representing today?

6 A. Yes.

7 Q. And do you understand, sir, that your
8 answers to my questions today are testimony that is
9 being given under oath?

10 A. Yes.

11 Q. And your testimony is subject to the
12 penalty of perjury; do you understand that, sir?

13 A. I do.

14 Q. Sir, I'd like to hand you what has been
15 marked Deposition Exhibit 1. So that the record is
16 clear today, and that we know that we are
17 communicating, this is a definition of a term that
18 will be used in the course of my questioning, and the
19 term is "sexual relations." I will inform the Court
20 that the wording of this definition is patterned
21 after Federal Rule of Evidence 413. Would you please
22 take whatever time you need to read this definition,
23 because when I use the term "sexual relations," this
24 is what I mean today. 849-DC-00000370

25 MR. BENNETT: Is there a copy for the

William Jefferson Clinton

1 Court?

2 MR. FISHER: Would you pass that, please?

3 MR. BENNETT: Your Honor, as an
4 introductory matter, I think this could really lead
5 to confusion, and I think it's important that the
6 record be clear. For example, it says, the last
7 line, "contact means intentional touching, directly
8 or through clothing." I mean just for example, one
9 could have a completely innocent shake of the hand,
10 and I don't want this record to reflect -- I think
11 we're here today for Counsel for the Plaintiff to ask
12 the President what he knows about various things,
13 what he did, what he didn't do, but I, I have a real
14 problem with this definition which means all things
15 to all people in this particular context, Your
16 Honor. 849-DC-00000371

17 MR. BRISTOW: Your Honor, I think the
18 wording of that is extremely erroneous. What this,
19 what the deposing attorney should be looking at is
20 exactly what occurred, and he can ask the witness to
21 describe as exactly as possible what occurred, but to
22 use this as an antecedent to his questions, it would
23 put him in a position, if the President admitted
24 shaking hands with someone, then under this truncated
25 deposition -- or definition, he could say or somehow

William Jefferson Clinton

1 construe that to mean that that involves some sort of
2 sexual relations, and I think it's very unfair.
3 Frankly I think it's a political trick, and I've told
4 you before how I feel about the political character
5 of what this lawsuit is about.

6 MR. FISHER: Your Honor, may I respond?

7 JUDGE WRIGHT: You may.

8 MR. FISHER: The purpose of this is to
9 avoid everything that they have expressed concern
10 about. It is to allow us to be discreet and to make
11 the record crystal clear. There is absolutely no way
12 that this could ever be construed to include a
13 shaking of the hand.

14 MR. BENNETT: Well, Mr. Fisher, let me
15 refer you to paragraph two. It says "contact between
16 any part of the person's body or an object and the
17 genitals or anus of another person."

18 What if the President patted me and said I
19 had to lose ten pounds off my bottom? I -- you could
20 be arguing that I had sexual relations with him.
21 Your Honor, this is going to lead to confusion. Why
22 don't they ask the President what he did, what he
23 didn't do, and then we can argue in Court later about
24 what it means.

849-DC-00000372

25 JUDGE WRIGHT: All right, let me make a

William Jefferson Clinton

1 ruling on this. It appears that this really is not
2 the definition of contact under Rule 413 because Rule
3 413 deals with nonconsensual contact. This
4 definition would encompass contact that is
5 consensual, and of course the Court has ruled that
6 some consensual contact is relevant in this case, and
7 so let the record reflect that the Court disagrees
8 with counsel that this is not, about it being the
9 definition under Rule 413. It's not. It is more in
10 keeping with, however, the Court's previous rules,
11 but I certainly agree with the President's Counsel
12 that this, the definition number two is too
13 encompassing, it's too broad, and so is definition
14 number three. Definition number one encompasses
15 intent, and so that would be, but numbers two and
16 three is just, are just too broad.

17 MR. FISHER: All right, Your Honor.

18 JUDGE WRIGHT: And number one is not too
19 broad, however, so I'll let you use that definition
20 as long as we understand that that's not Rule 413,
21 it's just the rule that would apply in this case to
22 intentional sexual contact. 849-DC-00000373

23 MR. FISHER: Yes, Your Honor, and had I
24 been allowed to develop this further, everyone would
25 have seen that Deposition Exhibit 2 is actually the

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1 definition of sexual assault or offensive sexual
2 assault, which is the term in Rule 413.

3 MR. BENNETT: Your Honor, I object to this
4 record being filled with these kinds of things. This
5 is going to leak. Why don't they ask -- they have
6 got the President of the United States in this room
7 for several hours. Why don't they ask him questions
8 about what happened or didn't happen?

9 JUDGE WRIGHT: I will permit him to refer to
10 definition number one, which encompasses knowing and
11 intentional sexual contact for the purpose of
12 arousing or gratifying sexual desire. I'll permit
13 that. Go ahead.

14 Q. All right, Mr. President, in light of the
15 Court's ruling, you may consider subparts two and
16 three of Deposition Exhibit 1 to be stricken, and so
17 when in my questions I use the term "sexual
18 relations," sir, I'm talking only about part one in
19 the definition of the body. Do you understand that,
20 sir?

849-DC-00000374

21 A. I do.

22 Q. I'm now handing you what has been marked
23 Deposition Exhibit 2. Please take whatever time you
24 need to read Deposition Exhibit 2.

25 MR. BENNETT: Your Honor, again, what I am

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1 very worried about, Your Honor, is first of all,
2 this, this, this appears to be a -- I mean what I
3 don't want to do is have him being asked questions
4 and then we don't, we're all ships passing in the
5 night. They're thinking of one thing, he's thinking
6 of another. Are we talking criminal assault? I mean
7 this is not what a deposition is for, Your Honor. He
8 can ask the President, what did you do? He can ask
9 him specifically in certain instances what he did,
10 and isn't that what this deposition is for? It's not
11 to sort of lay a trap for him, and I'm going to
12 object to the President answering and having to
13 remember what's on this whole sheet of paper, and I
14 just don't think it's fair. It's going to lend to
15 confusion.

16 JUDGE WRIGHT: All right, do you agree with
17 Mr. Bennett?

18 MR. BRISTOW: I had one other point to add,
19 Your Honor.

20 JUDGE WRIGHT: All right. 849-DC-00000375

21 MR. BRISTOW: This is almost like in a
22 typical automobile accident where the plaintiff's
23 counsel wants to ask the defendant were you
24 negligent. That's not factual.

25 JUDGE WRIGHT: Mr. Fisher, do you have a

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1 response?

2 MR. FISHER: Yes, Your Honor. What I'm
3 trying to do is avoid having to ask the President a
4 number of very salacious questions and to make this
5 as discreet as possible. This definition, I think
6 the Court will find, is taken directly from Rule 413,
7 which I believe President Clinton signed into law,
8 with the exception that I have narrowed subpart one
9 to a particular section, which would be covered by
10 Rule 413, and I have that section here to give the
11 President so that there is no question what is
12 intended. This will eliminate confusion, not cause
13 it.

14 MR. BENNETT: Your Honor, I have no
15 objection where the appropriate predicates are made
16 for them to ask the President, did you know X, yes or
17 no, what happened, what did you do, what didn't you
18 do. We are -- we acknowledge that some embarrassing
19 questions will be asked, but then we all will know
20 what we're talking about, but I do not want my client
21 answering questions not understanding exactly what
22 these folks are talking about. 849-DC-00000376

23 Now, Your Honor, I told you that the
24 President has a meeting at four o'clock, and we've
25 already wasted twenty minutes, and Mr. Fisher has yet

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1 to ask his first factual question.

2 JUDGE WRIGHT: Well, I'm prepared to rule,
3 and I will not permit this definition to be
4 understood. Quite frankly there's several reasons.
5 One is that the Court heretofore has not proceeded
6 using these definitions. We have used, we've made
7 numerous rulings or the Court has made numerous
8 rulings in this case without specific reference to
9 these definitions, and so if you want to know the
10 truth, I don't know them very well. I would find it
11 difficult to make rulings, and Mr. Bennett has made
12 clear that he acknowledges that embarrassing
13 questions will be asked, and if this is in fact an
14 effort on, on the part of Plaintiff's Counsel to
15 avoid using sexual terms and avoid going into great
16 detail about what might or might not have occurred,
17 then there's no need to worry about that, you may go
18 into the detail.

19 MR. BENNETT: If the predicates are met, we
20 have no objection to the detail.

21 MR. FISHER: Thank you, Your Honor.

22 JUDGE WRIGHT: It's just going to make it
23 very difficult for me to rule, if you want to know
24 the truth, and I'm not sure Mr. Clinton knows all
25 these definitions, anyway.

849-DC-00000377

EXHIBIT C

Paula Jones v. William Jefferson Clinton and Danny Ferguson
No. LR-C-94-290 (E.D. Ark.)

DEPOSITION OF WILLIAM JEFFERSON CLINTON

Definition of Sexual Relations

For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes -

- (1) contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person;
- (2) contact between any part of the person's body or an object and the genitals or anus of another person; or
- (3) contact between the genitals or anus of the person and any part of another person's body.

"Contact" means intentional touching, either directly or through clothing.

849-DC-00000586



EXHIBIT D

1. Ms. Lewinsky had an intimate and emotional relationship with President Clinton beginning in 1995. At various times between 1995 and 1997, Ms. Lewinsky and the President had physically intimate contact. This included oral sex, but excluded intercourse.
 2. When asked what should be said if anyone questioned Ms. Lewinsky about her being with the President, he said she should say she was bringing him letters (when she worked in Legislative Affairs) or visiting Betty Currie (after she left the WH). There is truth to both of these statements.
 3. After Ms. Lewinsky was informed she was being transferred to the Pentagon, Mr. Clinton told her that a) he promised to bring her back to the WH after the election and (in a subsequent conversation) b) Evelyn Lieberman spearheaded the transfer because she felt the President paid too much attention to me and vice versa. Ms. Lieberman told the Pres. that she didn't care who worked there after the election, but they needed to be careful until then.
- After the election, Ms. Lewinsky asked the Pres. to bring her back to the WH. In the following

months, Mr. Clinton told Ms. Lewinsky that Bob Nash was handling it and then Marsha Scott became the contact person. Ms. L met with Ms. Scott twice. In the second meeting, Ms. Scott told Ms. L she would detail her from the Pentagon to her (Ms. Scott's) office, so people could see Ms. L's good work and stop referring to her as "The Stalker." Ms. Scott told Ms. L they had to be careful and protect the Pres. Ms. Scott later rescinded her offer to detail Ms. Lewinsky to her office.

Ms. Betty Currie asked Mr. John Podesta to take over placing me in the WH. Three weeks after that, Ms. Linda Tripp informed Ms. L that a friend of Ms. Tripp's in the NSC, Kate, had heard rumors about Ms. L; Ms. L would never work at the WH with a blue pass; and suggested to Ms. Tripp that Ms. L leave Washington, DC.

Following this conversation, Ms. Lewinsky requested of the Pres. that he ask Vernon Jordan to help secure her a non-government position in NY. He agreed to ask Mr. Jordan.

In an effort to help Ms. L., Ms. Currie asked Mr. Podesta to assist, as well. Ms. L. believes that

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The Pres. ~~also~~ spoke with Mr. Easing Jones regarding Ms. L's employment in NY. Mr. Podesta arranged for Ms. L to interview with Amb. Richardson who later offered Ms. L a position in Communications/ Public Affairs at the USON.

In the beginning of November 1997, Ms. L met with Mr. Jordan. He asked Ms. L why she was there to see him. Ms. L explained to him (in more detail) that she and the Pres. were friends and people got the wrong idea, resulting in Ms. L's banishment to the Pentagon. Ms. L said she was seeking Mr. Jordan's help to begin a new life; he agreed to help.

Ms. L met again with Mr. Jordan in the beginning of December '97, at which time he provided Ms. L with a list of three people to contact and suggested language to use in her letters to them. At some point, Mr. Jordan remarked something about Ms. L being a friend of the Pres. of the United States. Ms. L responded that she never really saw him as "the President"; she spoke to him like a normal man and even got angry with him like a normal man. Mr. Jordan asked what Ms. L got angry about. Ms. L replied that the Pres. doesn't see or call her enough. Mr. Jordan said

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Ms. L should take her frustrations out on ~~the~~ him -- not the President.

The following week Ms. L had two interviews in NY ^{in response to} ~~as a result of~~ her letters.

4. After Ms. Lewinsky was informed by the Pres., she was identified as a possible witness in the Jones case, the Pres. and Ms. L discussed what she should do. The Pres. told her ~~he~~ he was not sure she would be subpoenaed, but in the event that she was, she should contact Ms. Currie. When asked what to do if she was subpoenaed, the Pres. suggested she could sign an affidavit to try to satisfy their inquiry and not be deposed. In general, Ms. L should say she visited the Wt to see ~~B~~ Ms. Currie and, on occasion when working at the Wt, she brought him letters when no one else was around. Neither of those statements untrue. To the best of Ms. L's memory, she does not believe they discussed the content of any deposition that Ms. L might be involved in at a later date.

After Ms. L received the draft of the affidavit, she called Mr. Jordan to ask that he look it over before she sign it. He instructed her to drop off a copy at his office. They spoke later by phone about the affidavit agreeing to make some changes.

That evening, Ms. L placed a phone call to Ms. Carrie asking her to tell the Pres. that she wanted to speak with him before she signed something the next day. He returned Ms. L's call a few hours later. Ms. L told him Mr. Carter had asked her some sample questions that might be asked of her in the deposition and she didn't know how to answer them. Furthermore, she was concerned that if the answers involved naming people in the WH who didn't like her they would try to screw her over. Ms. L asked him how she should respond to the question, "How did you get your job at The Pentagon?" He replied, "The people in Legislative Affairs helped you." This is, in fact, part of the truth - but not the whole truth. The Pres. told Ms. L not to worry about the affidavit as he had seen

9. Ms. L started to become wary of Ms. Tripp in the beginning of Dec. 1997, when Ms. Tripp told Ms. L she had received a subpoena in the Jones case and if asked about Ms. L or others, she would divulge all she knew.
10. Ms. L had a physically intimate relationship with the President. Neither the Pres. nor Mr. Jordan (or anyone on their behalf) asked or encouraged ~~Ms. L~~ ^{Ms. L} to lie. ~~Ms. L~~ ^{Ms. L} was comfortable signing the affidavit with regard to the "sexual relationship" because she could justify to herself that ~~they~~ she and the Pres. did not have sexual intercourse.
11. At some point in the relationship between Ms. L and the President, the President told Ms. L to deny a relationship, if ever asked about it. He ^{also} said something to the effect of if ~~two~~ the two people who are involved say it didn't happen -- it didn't happen. ~~Ms. L~~ Ms. L knows this was said some time prior to the subpoena in the Paula Jones case.
12. Item #2 above also occurred prior to the subpoena in the Paula Jones case.

1 President when I was working there -- not after, but when I
2 was working there -- we usually would -- we'd start in the
3 back and we'd talk and that was where we were physically
4 intimate, and we'd usually end up, kind of the pillow talk of
5 it, I guess, was sitting in the Oval Office talking. So
6 there's --

7 BY MR. WISENBERG:

8 Q And, again, when you say when you started in the
9 back, that could either be the hallway or the back?

10 A Correct, yes.

11 BY MR. EMMICK:

12 Q I would like to ask you some questions about any
13 steps you took to try to keep your relationship with the
14 President secret.

15 A A lot.

16 Q All right. Well, why don't we just ask the
17 question open-endedly and we'll follow up.

18 A Okay. I'm sure, as everyone can imagine, that this
19 is a kind of relationship that you keep quiet, and we both
20 wanted to be careful being in the White House. Whenever I
21 would visit him during -- when -- during my tenure at the
22 White House, we always -- unless it was sort of a chance
23 meeting on a weekend and then we ended up back in the office,
24 we would usually plan that I would either bring papers, or
25 one time we had actually accidentally bumped into each other

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1 in the hall and went from that way, so then we planned to do
2 that again because that seemed to work well. But we always -
3 - there was always some sort of a cover.

4 Q When you say that you planned to bring papers, did
5 you ever discuss with the President the fact that you would
6 try to use that as a cover?

7 A Yes.

8 Q Okay. What did the two of you say in those
9 conversations?

10 A I don't remember exactly. I mean, in general, it
11 might have been something like me saying, well, maybe once I
12 got there kind of saying, "Oh, gee, here are your letters,"
13 wink, wink, wink, and him saying, "Okay, that's good," or --

14 Q And as part of this concealment, if you will, did
15 you carry around papers when you went to the visit the
16 President while you worked at Legislative Affairs?

17 A Yes, I did.

18 Q Did you ever actually bring him papers to sign as
19 part of business?

20 A No.

21 Q Did you actually bring him papers at all?

22 A Yes.

23 Q All right. And tell us a little about that.

24 A It varied. Sometimes it was just actual copies of
25 letters. One time I wrote a really stupid poem. Sometimes I

1 put gifts in the folder which I brought.

2 Q And even on those occasions, was there a legitimate
3 business purpose to that?

4 A No.

5 Q Did you have any discussions with the President
6 about what you would say about your frequent visits with him
7 after you had left Legislative Affairs?

8 A Yes.

9 Q Yes. What was that about?

10 A I think we -- we discussed that -- you know, the
11 backwards route of it was that Betty always needed to be the
12 one to clear me in so that, you know, I could always say I
13 was coming to see Betty.

14 Q And is there some truth in the notion that you were
15 coming to see Betty?

16 A Coming to see Betty, I don't know. Did I -- I saw
17 Betty on every time that I was there.

18 Q What was your purpose though in going --

19 A My purpose was -- most of the time my purpose was
20 to see the President, but there were some times when I did
21 just go see Betty but the President wasn't in the office.

22 Q When the President was in the office, was your
23 purpose in going there to see the President?

24 A Yes.

25 Q What about the writing of things down on paper?

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5:

1 visit and then for some reason or another she wasn't there,
2 that you remember?

3 A No, not that I remember.

4 Q What about throwing away notes that you had written
5 to the President? Was there any discussion of throwing out
6 the notes or any notations that you would write on the notes
7 to remind him to throw them out?

8 A Yes, I think that I may have had a discussion with
9 the President about him throwing things away, I think, or
10 making sure that they're not there. I know one specific
11 occasion in one of the notes that I sent him I made a joke
12 that really was reminding him not to -- to make sure he threw
13 the -- make sure he threw it away.

14 Q I've asked you a number of questions having to do
15 with how you tried to keep the relationship secret. Let me
16 ask, did you tell some people about the relationship?

17 A Unfortunately, yes.

18 Q All right. Could you tell us some of the people
19 that you've told about the relationship?

20 A Linda Tripp, Catherine Davis, Neysa Erbland, Dale
21 Young, Ashley Raines, and my mom and my aunt. Everybody knew
22 a different amount of -- had a different amount of
23 information.

24 Q Natalie Ungvari?

25 A Oh, Natalie Ungvari, yes.

1 Q Did you tell any of your -- any counselors or
2 therapists of any kind about your relationship?

3 A Yes, I did.

4 Q All right. Would you tell us who they would be?

5 A Dr. Irene Kassorla, and I believe it's Dr. Kathy
6 Estep.

7 Q When you talked about your relationship with the
8 President with these people, did you lie about your
9 relationship?

10 A No. I may have not told them every detail, but I
11 don't believe I ever lied. Oh, about the -- oh, wait, do you
12 mean the doctors or was that in general?

13 Q I meant in general.

14 A Well, there were -- about my relationships -- I'm
15 sorry, could you be more specific?

16 Q Sure. You listed a number of people that you had
17 told about your relationship with the President.

18 A Right.

19 Q I'm just trying to figure out if you told the truth
20 to those people when you described the relationship.

21 A Yes. There were some occasions when I wasn't
22 truthful about certain things, but not having to do with, I
23 think, the general relationship. Does that make sense?

24 Q Expand on that just a little. I'm just not sure.

25 A Well, I think with Linda Tripp, I mean there were

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1 times that I was not truthful with her. I mean, I didn't
2 know if that's what you were encompassing by saying
3 relationship or not.

4 Q Let's put Linda Tripp aside for a bit because I
5 think I know what you have in mind.

6 A Right.

7 Q Put Linda Tripp aside for a bit. Were you truthful
8 with the others about your description of the relationship?

9 A Yes.

10 Q And since you mentioned Linda Tripp, were there
11 occasions toward the end of, I guess it would be December or
12 January, when you said some things to Linda Tripp that were
13 not true?

14 A Yes.

15 Q All right. We'll have a chance to get to that in a
16 bit.

17 A Okay.

18 Q What I would like to turn to next is the -- is
19 April of 1996 and your transfer from the White House to the
20 Department of Defense. When were you first told about the
21 fact that you were being terminated from Legislative Affairs?

22 A On the 5th -- I think it was the 5th of April,
23 Friday.

24 Q Did you later have a telephone conversation with
25 the President about your being terminated?

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1 A Yes.

2 Q Tell us about that.

3 A I had been trying to get in touch with him maybe
4 since the latter part of June to discuss some of my meetings
5 with Marsha Scott that had not gone as I had hoped they would
6 and -- excuse me -- the President wasn't responding to me and
7 wasn't returning my calls and wasn't responding to my notes.
8 And I got very upset so I sat down that morning actually and
9 scribbled out a long letter to him that talked about my
10 frustrations and that he had promised to bring me back; if he
11 wasn't going to bring me back that I -- you know, then could
12 be help me find a job -- at that point I said in New York at
13 the United Nations, and that I sort of dangled in front of
14 him to remind him that if I wasn't coming back to the White
15 House I was going to need to explain to my parents exactly
16 why that wasn't happening.

17 Q And what was your purpose in sending a letter of --
18 that kind to the President?

19 A I think it was sort of had a few purposes, in that
20 towards the end of the letter I softened up again and was
21 back to my mushy self, but the purpose was -- one of the
22 purposes, I think, was to kind of remind him that I had left
23 the White House like a good girl in April of '96. A lot of
24 other people might have made a really big stink and said that
25 they weren't going to lose their job and they didn't want to

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1 Q Did there come a time in about October when you
2 gave up, more or less, on your efforts to get back to the
3 White House and you turned your attention more to New York
4 City?

5 A Yes.

6 Q All right. Tell us how that happened.

7 A Linda Tripp called me at work on October 6th and
8 told me that her friend Kate in the NSC had heard from -- had
9 heard rumors about me and that I would never work in the
10 White House again and, if I did, I wouldn't have a blue pass
11 and that her advice to me was "get out of town." So that
12 meant to me that I wasn't going to be coming back to the
13 White House and I was very upset by that.

14 Also, she, Linda, told me that Kate had said,
15 "You know, they create jobs at the White House, you know, six
16 days a week." And that Stephen Goodin's girlfriend had just
17 gotten a job, so with these examples of how there had been
18 all these other people receiving jobs that I could have done
19 and I didn't get it.

20 Q Did you communicate your additional frustration and
21 disappointment to the President?

22 A Yes, I did.

23 Q Tell us how and when.

24 A I believe I sent him a short note telling him that
25 I really needed to talk to him in person having to do with

1 this subject matter and he and I had an argument in a
2 conversation on the 9th of October.

3 Q And was that a telephone conversation?

4 A Yes, it was.

5 Q Did he call you or did you call him?

6 A He called me.

7 Q About what time, if you can remember?

8 A I think it was around 2:30, 3:00 in the morning.

9 Q Was it a long phone call?

10 A Yes. Yes. 2:00, 2:30 maybe.

11 Q Is it fair to characterize the phone call as
12 involving an argument?

13 A Yes. And then we made up.

14 Q And then you made up.

15 A It was half argument, half making up.

16 Q Did the name Vernon Jordan come up in the course of
17 that discussion?

18 A It's possible.

19 Q What do you have in mind about the first time that
20 Vernon Jordan's name would have come up in conversations with
21 the President?

22 A It was either in that phone call or on October
23 11th.

24 Q And tell us what was said about Vernon Jordan,
25 whether it was in the phone call or on the 11th.

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1 A I don't remember. I know that I had discussed with
2 Linda and either I had had the thought or she had suggested
3 that Vernon Jordan would be a good person who is a close
4 friend of the President and who has a lot of contacts in
5 New York, so that that might be someone who might be able to
6 help me secure a position in New York, if I didn't want to go
7 to the U.N.

8 Q And what was the President's response?

9 A "I think that was a good idea."

10 Q At some point, did you send the President something
11 like a list of jobs or interests that you might have in
12 New York?

13 A Yes. He asked me to prepare that on the 11th of
14 October.

15 Q At some point, did you have an initial meeting with
16 Vernon Jordan?

17 A Yes, I did.

18 Q Can you tell us when that was, as best you can
19 recall?

20 A The beginning of November of last year.

21 Q How was that meeting arranged?

22 A Through conversations with the President and with
23 Betty.

24 Q Without getting into a lot of detail about what
25 happened there during the first meeting with Vernon Jordan,

1 what did you think were your job prospects after that? Did
2 it look like things were going to happen?

3 A Yes.

4 Q All right. And what happened with respect to the
5 job situation from that meeting with Vernon Jordan until,
6 say, Thanksgiving?

7 A Nothing, really.

8 Q Okay. Then let's turn our attention to the month
9 of December. We'll have to relate back a little bit to
10 November in order to complete things, but on December 5th,
11 did you return to Washington from overseas?

12 A I did. You know -- the question you just asked me
13 before about until Thanksgiving, I did have a conversation
14 with him before Thanksgiving, I think it was the day before.

15 Q Okay.

16 A So --

17 Q Then why don't you complete that, then.

18 A Okay. I had spoken to Betty about -- about not
19 being -- being able to get in touch with Mr. Jordan because
20 he was in and out of town and then wasn't necessarily
21 returning my call. He's a busy man. And so Betty arranged
22 for me to speak with him again and I spoke with him when
23 I was in Los Angeles before -- right before Thanksgiving.

24 Q Okay. Let's just go back, if we might, to that
25 early November meeting with Mr. Jordan.

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1 A Okay.

2 Q Did he say anything indicating to you that he had
3 spoken with the President recently about you?

4 A Yes. I believe he mentioned he'd had a
5 conversation with the President.

6 Q And what did he say about that or what did he say
7 that indicated he may have spoken with the President?

8 A I believe he mentioned that in the course of the
9 conversation and as I was leaving, he remarked to me that
0 I came highly recommended.

1 Q Okay. Let's turn our attention to December 5th,
2 then.

3 A Okay.

4 Q Having in mind that you had had a meeting with
5 Vernon Jordan and a discussion and were trying to get a hold
6 of him, when you got back from overseas, sort of what was the
7 status of the Vernon Jordan job effort?

8 A When I had spoken with Mr. Jordan right before
9 Thanksgiving, he had asked me to call him the next week,
0 either, I think, Thursday or Friday. And because I was out
1 of town, I called him on Friday when I got back, and it was
2 my understanding from his secretary he had gone out of town
3 that day, so we had missed each other.

4 Q All right. Did you try to arrange a meeting with
5 President Clinton?

1 So I think I just -- probably blushed or giggled,
2 something like that.

3 Q How did the meeting end? What were you going to do
4 and what was he going to do?

5 A I was planning to send the letters that he had
6 suggested I write to the list of people and he suggested that
7 I cc him and keep in touch with him, keep him apprised of
8 what was happening with my job search.

9 Q And did you send out those letters?

10 A Yes, I did.

11 Q And make arrangements for some interviews?

12 A Yes, I did.

13 Q What I want to do next, then, is direct your
14 attention to a few days later, several days later, a
15 week later, I guess. Did you come to have a telephone
16 conversation with the President on December 17th?

17 A Yes.

18 Q Would you tell us how that telephone call was --
19 how that conversation took place?

20 A Okay. The phone rang unexpectedly at about maybe
21 2:00 or 2:30 and --

22 BY MS. IMMERGUT:

23 Q In the morning?

24 A Right. In the morning. And it was the President
25 and he called and said he had two things to tell me and then

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1 he had to call me right back. So he called me right back.

2 BY MR. EMMICK:

3 Q Did he explain why he had to call and then call
4 back?

5 A I don't know. He just was very brief with me and
6 then he said, "I'll call you right back." And he hung up and
7 called back about a minute later.

8 Q Before you get to the actual things that he says
9 next, you mentioned that you unexpectedly go the call. Why
10 were you surprised by the call?

11 A Normally, the President wouldn't call me when
12 Mrs. Clinton was in town, so -- and I usually was aware when
13 she was out of town, so I that I would sort of be expecting
14 or hoping that he would call. And the call came as a
15 surprise to me.

16 Q He called you back?

17 A Right.

18 Q Then what happened?

19 A And he told me that he had two things to tell me.
20 The first was that Betty's brother had been killed in a
21 car accident and that -- so I reacted that and we talked
22 about that being -- that this was the same brother who had
23 been beaten up just a few months ago and she had lost her
24 sister and her mom was ill. We talked about Betty for a
25 little bit.

1 And then he told me he had some more bad news, that
2 he had seen the witness list for the Paula Jones case and my
3 name was on it.

4 Q Did you get an impression from him about when he
5 had found out your name was on the witness list?

6 A Yes. I mean, the impression I got based on the
7 entire conversation was that he found out recently.

8 Q When he told you that, what did he say about having
9 seen your name on the witness list?

10 A He told me it broke his heart.

11 Q Tell us how the conversation went from there.

12 A I was -- I'm sure, as you can imagine, I was upset
13 and shocked. He told me that it didn't necessarily mean that
14 I would be subpoenaed, but that that was a possibility, and
15 if I were to be subpoenaed, that I should contact Betty and
16 let Betty know that I had received the subpoena.

17 I believe that I probably asked him; you know, what
18 should I do in the course of that and he suggested, he said,
19 "Well, maybe you can sign an affidavit."

20 At some point in the conversation, and I don't know
21 if it was before or after the subject of the affidavit came
22 up, he sort of said, "You know, you can always say you were
23 coming to see Betty or that you were bringing me letters."
24 Which I understood was really a reminder of things that we
25 had discussed before.

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1 Q So when you say things you had discussed, sort of
2 ruses that you had developed.

3 A Right. I mean, this was -- this was something
4 that -- that was instantly familiar to me.

5 Q Right.

6 A And I knew exactly what he meant.

7 Q Had you talked with him earlier about these false
8 explanations about what you were doing visiting him on
9 several occasions?

10 A Several occasions throughout the entire
11 relationship. Yes. It was the pattern of the relationship,
12 to sort of conceal it.

13 Q When he said that you might sign an affidavit, what
14 did you understand it to mean at that time?

15 A I thought that signing an affidavit could range
16 from anywhere -- the point of it would be to deter or to
17 prevent me from being deposed and so that that could range
18 from anywhere between maybe just somehow mentioning, you
19 know, innocuous things or going as far as maybe having to
20 deny any kind of a relationship.

21 Q At some point, did you talk with him about possibly
22 settling the Paula Jones case?

23 A Yes. I had -- I had had a thought and then had a
24 conversation with Linda about this and just a way that he
25 could settle the case and I suggested it to him.

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1 A The demand was lower.

2 Q Right.

3 A We also talked in this conversation about he
4 mentioned that -- he said he'd try and see if Betty could
5 come in on the weekend to give me my Christmas presents and
6 I told him that was out of the question, to -- you know,
7 let Betty be.

8 Q Because her brother had just been killed, right?

9 A Right.

10 Q All right. About how long was the entire phone
11 call? Or I guess technically it would be the second phone
12 call.

13 A Maybe a half an hour. Maybe I could just say since
14 you asked me earlier that it was him suggesting that I would
15 contact Betty if I were subpoenaed that led me to believe he
16 didn't think I would be subpoenaed that soon because he knew
17 Betty was going to be out, you know, he assumed obviously
18 that Betty would be out for the week or two weeks with the
19 unexpected loss of her brother.

20 Q Right.

21 A So that was what led me to believe he had just
22 found out.

23 Q After the call was ended, did you call anyone else?

24 A Yes. About a half an hour later, I called Linda.

25 Q What did the two of you talk about?

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1 think he was trying to imply that all subpoenas ask for that
2 or that all subpoenas in the Paula Jones case asked for that
3 or all subpoenas -- what was he -- from your point of view,
4 what was he trying to convey?

5 A I think what he -- I think what he was trying to
6 convey was stop worrying, that this is not something out of
7 the -- you know, out of the realm of possibility of what
8 might be in a subpoena.

9 Q All right. Were you reassured by that?

10 A A little. I -- I sort of felt that he wasn't --
11 I mean, he didn't really understand what I was saying.

12 Q All right. Did you have any discussion with
13 him about letting the President know that you'd been
14 subpoenaed?

15 A Yes. I asked Mr. Jordan to inform the President.

16 Q How did you ask? How often? How vigorously?

17 A I -- I mean, I asked him to -- to please make sure
18 that he told the President. He said he was going to see the
19 President that night, so --

20 Q All right. Did the subject of a possible sexual
21 relationship between you and the President come up in the
22 conversation?

23 A Yes, it did.

24 Q Tell us how it came up.

25 A Mr. Jordan said to me that there -- "There are

1 two important questions" or "There are two important -- "
2 I think, "Two important questions that are related to the
3 case: Did you have sex with the President, you know, or did
4 he ask?" And I said no to both of those.

5 Q What did you interpret him to be asking when he
6 asked you those questions?

7 A Well, I thought he -- I guess -- can I step back
8 for a minute?

9 Q Sure. Up until a point that we'll get to, which is
10 December 31st, I sort of -- mainly, I think, from my
11 discussions with Linda, I was under the impression that --
12 that Mr. Jordan kind of knew with a wink and a nod that I was
13 having a relationship with the President, that it was
14 never -- he and I never discussed it, but I thought it might
15 be possible.

16 I'm, you know, a young woman, sort of coming to
17 see him, the President's mentioned me. But I also was sort
18 of under this influence of Linda saying to me, "Of course he
19 knows. Of course he knows. Of course he knows."

20 So when he asked me those questions, I thought he
21 was asking me, saying essentially "What are you going to
22 say?" not necessarily asking me directly what -- you know,
23 "What are the answers to these questions?" More "What are
24 you going to reply in regard to the case?"

25 Q Now, was your interpretation of his questions based

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1 entirely on your assumption about what he knew? Or was it
2 based in part on how he asked the questions?

3 A I think it was based more in part on my assumptions
4 of what he knew.

5 Q Was there anything unusual or suggestive about how
6 he asked the questions?

7 A No.

8 Q And how did you answer the questions?

9 A No and no.

10 Q Okay. Did you try to make it clear to him at all
11 that there was more to the story than just no and no?

12 A Not at that point.

13 Q At that time, did you make arrangements to meet
14 with the attorney who you would get, Mr. Frank Carter?

15 A Yes. After Mr. Jordan made the arrangements with
16 Mr. Carter, he told me to be at his office at -- I think
17 11:00 or 10:30 on Monday.

18 Q All right. How did the meeting with Mr. Jordan
19 end? Was there any reference to a hug?

20 A Oh, yes. I'm sorry.

21 Q That's okay.

22 A When I was leaving, I asked him if he would give
23 the President a hug for me. I bugged him again about making
24 sure he told the President. And so he said, "I don't hug
25 men." I said, "Well, okay."

1 running joke with us, so he bought me these really funny
2 looking sunglasses and we both were putting them on and
3 joking around goofing off.

4 So -- I'm trying to think what else. Can I look at
5 the list?

6 MR. EMMICK: Sure. Feel free.

7 THE WITNESS: Oh. He got me a pin that had the
8 most of my Christmas presents were sort of New York themed,
9 so he got me a pin that had the New York skyline on it. I
10 think that's it. Well, it's a lot, so -- not just that's it.

11 BY MR. EMMICK:

12 Q Now, you had mentioned earlier that you were
13 concerned about the fact that the subpoena covered this hat
14 pin.

15 A Mm-hmm.

16 Q Did you discuss that concern with President
17 Clinton?

18 A Yes. We -- we really spent maybe about five -- no
19 more than ten minutes talking about the Paula Jones case on
20 this day and -- do you want me to talk about the hat pin or
21 that period of time?

22 Q The whole period of time, I suppose.

23 A I brought up the subject of the case because I was
24 concerned about how I had been brought into the case and been
25 put on the witness list. So I asked him how he thought I got

1 put on the witness list and he told me he thought that maybe
2 it was that woman from the summer with Kathleen Willey, which
3 I knew to be Linda Tripp, or maybe -- he said maybe some of
4 the uniformed -- maybe the uniformed officers.

5 We talked about that. I mentioned that I had been
6 concerned about the hat pin being on the subpoena and he said
7 that that had sort of concerned him also and asked me if I
8 had told anyone that he had given me this hat pin and I said
9 no.

10 Q That was false.

11 A Correct. Yes. When in fact I had told people
12 about the hat pin.

13 Q Right.

14 A Let's see. And then at some point I said to him,
15 "Well, you know, should I -- maybe I should put the gifts
16 away outside my house somewhere or give them to someone,
17 maybe Betty." And he sort of said -- I think he responded,
18 "I don't know" or "Let me think about that." And left that
19 topic.

20 Q When you said "the gifts," what did you mean by
21 "the gifts"?

22 A I meant all the gifts that he had given me.

23 Q All right. Do you think that you're the one who
24 came up with Betty's name?

25 A I'm not 100 percent sure, but when I received the

1 call from Betty, I wasn't surprised that it was Betty
2 calling, so that's what leads me to believe that I might have
3 suggested it.

4 Q Okay. Did you discuss with the President the fact
5 that you were planning to sign an affidavit?

6 A I might have mentioned it, but I don't think -- we
7 really didn't spend very much time on this subject.

8 Q All right. So you walked in without many gifts,
9 you were going to walk out with a bag of gifts.

10 A Mm-hmm.

11 Q Okay. Did it strike you as unusual that when you
12 had a subpoena calling for you to produce gifts the President
13 is giving you a bag of gifts?

14 A At the time, it didn't strike me as unusual.

15 Q Okay. And why is that?

16 A I never thought about it. I mean, I was -- I
17 was -- I had struggled for a long time before the 28th -- or
18 I should just say -- I guess a few days before the 28th, that
19 if I was going to see the President, if I should tell him or
20 not that Linda knew. And I decided not to.

21 And so I -- I thought this might be the last time
22 I saw him before I went to New York and I wanted it to be a
23 really nice visit, so I was -- I -- having decided not to
24 tell him about Linda, I kind of didn't even want to go too
25 far there in getting mired down in the discussion of the case.

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1 met with Linda on the 13th, when she was wearing a wire, and
2 even in subsequent or previous conversations and subsequent
3 conversations, I attributed things to Mr. Jordan that weren't
4 true because I knew that it had leverage with Linda and that
5 a lot of those things that I said got him into a lot of
6 trouble and I just -- he's a good person and --

7 Q Is one example of -- and then I'll leave this
8 topic, is one example of one of the things you told Linda
9 that isn't true, "I told Vernon Jordan no job, no affidavit"?
10 Something along those lines?

11 A Yes. Because Linda made me promise her that on
12 the 9th.

13 Q Okay. Of January?

14 A Of January.

15 MR. WISENBERG: Okay.

16 THE FOREPERSON: Do you need a minute?

17 THE WITNESS: I'm okay. Thanks.

18 A JUROR: I'm a little confused. When you said
19 that you said certain things because you know Linda had the
20 mike, right?

21 THE WITNESS: Oh, I didn't know Linda had the mike.
22 I now know that she was wearing a wire.

23 A JUROR: Okay. But so why would you say these
24 things about Mr. Jordan that were not true? What was the
25 reason?

1 conversation, she had told me she had changed her mind, she
2 was going to be vague on the truth about Kathleen Willey and
3 then she told me -- at that point, I had told her I hadn't
4 signed an affidavit when I had and I told I didn't have a job
5 yet and I knew I was probably going to be getting a job that
6 day.

7 And she said, "Monica, promise me you won't sign
8 the affidavit until you get the job. Tell Vernon you won't
9 sign the affidavit until you get the job because if you sign
10 the affidavit before you get the job, they're never going to
11 give you the job."

12 And I didn't want her to think that I had gone
13 ahead and done anything without her and that I was leaving
14 her in the dark. I wanted her to feel that -- sort of Linda
15 and myself against everyone else because I felt like I needed
16 to hold her hand through this in order to try to get her to
17 do what I wanted, essentially.

18 BY MR. EMMICK:

19 Q We can get into that in more detail when we talk
20 about the 13th.

21 A Okay.

22 Q Why don't we do the following. I wanted to ask
23 some -- rather than just jumping into the 31st which is a
24 Vernon Jordan meeting, why don't we ask some questions about
25 which of your gifts to the President you have ever seen in

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1 little bit hostile so that -- you know, you just rub them the
2 wrong way.

3 Q Okay.

4 A So that was how I was feeling.

5 Q That's how you exhibited the annoyance or anger or
6 whatever.

7 A Mm-hmm.

8 Q Okay. Tell us about your conversation with the
9 President.

10 A Because of those feelings, I was a little bit curt
11 with him and so I told him that I had had this meeting with
12 Mr. Carter and that I was concerned, you know, from the
13 questions he asked me that if, you know, if I at some point
14 had to kind of -- under oath, answer these questions and in
15 the course of answering a question I mentioned people at the
16 White House who didn't like me, that somehow I would end up
17 getting -- they'd get me in trouble.

18 And so he -- so when I told him the questions about
19 my job at the Pentagon, he said, "Well, you could always say
20 that the people in Legislative Affairs got it for you or
21 helped you get it."

22 And there was a lot of truth to that. I mean, it
23 was a generality, but that was -- I said, "Well, that's a
24 good idea. Okay."

25 Q Was there any discussion of the book?

1 Q Okay. All right. Okay. Well, let's go back to
2 Mr. Jordan, then.

3 A Well, I -- I mean, I was just thinking about the
4 day. I'm sorry.

5 Q No, that's fine. That's fine.

6 A Just I stopped in to see him for five minutes, to
7 thank him for getting me the job, and I gave him a tie and a
8 pocket square.

9 MR. EMMICK: Okay.

10 BY MS. IMMERGUT:

11 Q Did you ever provide Mr. Jordan with a signed copy
12 of the affidavit?

13 A I did not provide him with a copy. No.

14 Q Do you know whether or not he ever received a copy?

15 A I believe I showed him a copy. I don't know that
16 he received a copy.

17 BY MR. EMMICK:

18 Q On this same meeting on the 13th?

19 A I -- I -- you know, I have to say I know I brought
20 the copy with me to show him and I may have said, you know,
21 "Do you want to see it?" And I think he may have not even --
22 I think he may have said, you know, "I don't need to see it."
23 Or -- I --

24 BY MS. IMMERGUT:

25 Q So you don't specifically recall handing it over to

1 him or even showing it to him specifically.

2 A No.

3 Q But you brought it for him to --

4 A I did bring it.

5 MS. IMMERGUT: Correct.

6 BY MR. EMMICK:

7 Q All right. So that's the Vernon Jordan part of the
8 13th.

9 A Right.

10 Q What about the meeting with Linda Tripp?

11 A It was long. I was -- I was very nervous. I was
12 wary of her. I actually thought she might have a tape
13 recorder with her and had looked in her bag when she had gone
14 up to the restroom. I told her a whole bunch of lies that
15 day.

16 Q What were you trying to accomplish in meeting with
17 her?

18 A I was trying to -- I was trying to make Linda
19 continue to feel comfortable that she and I were sort of on
20 the -- that we were on the same side, we were on the right
21 side.

22 We -- and that -- when I had agreed to meet with
23 her, I thought we were going to go over kind of her strategy
24 for what she was going to do in the case and then once we got
25 together, she kind of started wavering about what she wanted

1 to do and then -- so I just was using everything I knew to
2 try to convince her that -- that this is the right thing to
3 do.

4 Q I think you mentioned earlier that you told her
5 lies.

6 A Yes.

7 Q What lies do you have in mind?

8 A I mean, I think -- throughout that month of
9 December, after I knew she was subpoenaed, there were various
10 things that I think I said that were untrue, but I
11 specifically remember from this meeting the thing that I
12 had -- what I said to Linda was, "Oh, you know, I told -- I
13 told Mr. Jordan that I wasn't going to sign the affidavit
14 until I got the job." Obviously, which wasn't true.

15 I told her I didn't yet have a job. That wasn't
16 true. I told her I hadn't signed the affidavit. That wasn't
17 true. I told her that some time over the holidays I had
18 freaked out and my mom took me to Georgetown Hospital and
19 they put me on Paxil. That wasn't true.

20 I think I told her that -- you know, at various
21 times the President and Mr. Jordan had told me I had to lie.
22 That wasn't true. That's just a small example. Probably
23 some more things about my mom. Linda had an obsession with
24 my mom, so she was a good leverage.

25 Q Let's turn our attention back to the 14th, then.

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1 On the 14th, the next day?

2 A Okay.

3 Q Right.

4 A Okay.

5 Q There's three pieces of paper that have come to be
6 referred to as the talking points.

7 A Yes.

8 MR. EMMICK: I think we have them marked as Grand
9 Jury Exhibit ML-5.

10 (Grand Jury Exhibit No. ML-5 was
11 marked for identification.)

12 BY MR. EMMICK:

13 Q I'll place them in front of you.

14 A Okay.

15 Q And they are three pages. I wonder if you would
16 tell us how those came to be written and on what computer and
17 the like.

18 A Okay. First of all, they're out of order.

19 Q Okay.

20 A So the last page was actually the first page.

21 Q All right. Well, let's clarify. What is now the
22 first page says "Points to make in affidavit." And the
23 second page says, "The first few paragraphs" at the top.
24 And the third page says, "You're not sure you've been clear."
25 The third page should be the first page?

1 A Yes.

2 Q All right. Let's go to first the mechanics of how

3 these got generated.

4 A Mm-hmm.

5 Q Were those printed from your printer?

6 A Yes.

7 Q Were they typed on your computer?

8 A Yes.

9 Q Was anyone present with you when they were typed?

10 A No.

11 Q When were they typed?

12 A On the 14th.

13 Q Did you talk with anyone in an effort to get

14 assistance editing or writing or getting approval for what is

15 in the talking points?

16 A No.

17 Q How did the -- where did you get the ideas that are

18 reflected in the talking points?

19 A They were based on conversations I've had with

20 Linda from the moment Kathleen Willey and Michael Isikoff

21 ever entered into the picture until the conversations I had

22 with her the morning of the 14th on the phone.

23 Q Tell me what you mean by that.

24 A At various times, especially early on, around March

25 or so when -- when Kathleen Willey first came up, Linda

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1 talked about how -- you know, that -- that -- what Kathleen
2 was saying to Michael Isikoff was not true. And so, you
3 know, we had had -- I remember having this discussion with
4 her where we were saying, well, if -- you know, if she's
5 lying to Michael Isikoff, how do you know she didn't lie to
6 you?

7 Linda said, "Yeah, that's a good point. Maybe she
8 did." You know?

9 And I said, "Yeah, sure. She could have, you know,
10 smeared her own lipstick and untucked her own blouse."

11 And Linda said, "Yeah, it's true."

12 That was very early on and throughout my
13 discussions with Linda, especially when she was saying --
14 saying things about how to be vague on the Kathleen Willey
15 issue in the Paula Jones case, we had these sorts of
16 discussions.

17 Q What did you do with the talking points? How did
18 you relay them to Linda Tripp?

19 A I took a copy of them to her.

20 Q And how were the arrangements made to give her that
21 copy?

22 A She had told me she was going to go see her
23 attorney, Kirby, that afternoon and was going to talk to him
24 about signing an affidavit, which is why this was all
25 generated. And so I offered to drive her there so that we

1 could just talk on the way because we -- we had had some time
2 to talk that morning, but not as much as I wanted.

3 Q Who was driving? You were driving?

4 A Yes.

5 Q And Linda has the talking points in her hands?

6 A I handed them to her in the parking lot of the
7 Pentagon.

8 Q Did she read them?

9 A Yes, she did.

10 Q What was she saying or doing as she was reading
11 them?

12 A She was going through it and she was sort of
13 reading and going, "Yeah. Mm-hmm. Uh-huh. Well, that's
14 true. Oh, good point."

15 I think she may have said, "Oh, these are -- this
16 is really -- that's true." You know. "Did you write this?"
17 Sort of a thing.

18 Q Okay. What did you think would happen after you
19 dropped the talking points off to Linda and then you dropped
20 Linda off? How were things left, I guess is another way to
21 ask that question.

22 A I believe that it was in the car ride home that she
23 said -- made some comment to me about -- that, well, she --
24 she feels okay -- and this might have been on the 13th when
25 she said this, she feels okay about, you know, kind of not

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1 telling the truth or being vague on the truth when she talks
2 to me, but then when she doesn't talk to me, she -- her mind
3 starts to wander to different things, so I just remember
4 feeling -- oh, like I had to hold her hand through everything
5 and I constantly had to talk to her. So I may have said,
6 "I'll call you tonight" or something like that.

7 Q Have you ever talked to Bruce Lindsey?

8 A No. I may have said hello to him in the hall, but
9 I -- but -- just in passing.

10 Q Did you ever talk with the President about the
11 talking points?

12 A No.

13 Q Did you ever talk with anyone at Bob Bennett's firm
14 about the talking points?

15 A No.

16 Q Did you ever talk with anyone associated with the
17 White House in any way about the talking points?

18 A No. And that would include Mr. Jordan.

19 Q Okay. Let's turn our attention, then, to the next
20 day, which is January 15th. Did Betty call you that day
21 about a call she had received from Mike Isikoff?

22 A Yes.

23 Q Okay. Tell us about that telephone call.

24 A I had learned earlier from my attorney that the
25 Paula Jones people had -- had -- well, I guess my attorney

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1 THE WITNESS: I don't think so. Maybe I told her
2 about a funny card or something. Not that I really remember.
3 I don't -- I think especially if it were something that was
4 ultra-sensitive, I don't -- you know, I don't --

5 A JUROR: Yes. That would probably be sealed.

6 THE WITNESS: Exactly.

7 A JUROR: But for any of the other little --

8 THE WITNESS: Might have been the jokes. Sometimes
9 I would put together jokes I got on the Internet or e-mail
10 jokes that I put together for him because, you know, everyone
11 needs to laugh, so -- I think maybe -- maybe there was a time
12 that I said, "Oh, you should look at these jokes, they're
13 really funny."

14 A JUROR: Okay.

15 MR. EMMICK: Other questions? Yes, ma'am?

16 A JUROR: Ms. Lewinsky, did you ever discuss with
17 the President whether you should delete documents from your
18 hard drive, either at the office or at home?

19 THE WITNESS: No.

20 A JUROR: Nothing like that?

21 THE WITNESS: No.

22 A JUROR: Did you ever discuss with the President
23 whether you should deny the relationship if you were asked
24 about it?

25 THE WITNESS: I think I always offered that.

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1 different kind of subject. When you first made the
2 determination that you were moving to New York and you wanted
3 to explore the possibilities of a job in private industry,
4 can you recall how you first got the recommendation about
5 Vernon Jordan's assistance in this endeavor?

6 THE WITNESS: I can't. I know that it was -- what
7 I don't remember was if it was my idea or Linda's idea. And
8 I know that that came up in discussions with her, I believe,
9 before I discussed it with the President. I know that I
10 suggested to the President or I -- I didn't suggest, I asked
11 the President if Mr. Jordan might be able to assist me.

12 A JUROR: To go back from the job search to what we
13 were talking about before, I seem to recall, and I may be
14 mistaken, when you were here before you said something about
15 Tim Keating when you were fired, said something to you like
16 maybe you can come back after the election.

17 THE WITNESS: Mm-hmm.

18 A JUROR: And I wanted to just hear sort of a
19 fuller explanation about that. Was it your understanding at
20 the time that Tim Keating was sort of -- that he understood
21 and was telling you that you were fired because of an
22 appearance problem around the time of the election?

23 THE WITNESS: Not at all.

24 A JUROR: No?

25 THE WITNESS: No.

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1 Q And then after she got the Paula Jones subpoena,
2 then she told you that she was going to disclose things and
3 tell the truth. Is that right?

4 A Yes. Yes.

5 Q Okay. And then in this conversation on January
6 9th, she indicated some willingness to consider keeping the
7 secret a bit longer.

8 A No, considered that she was going to do that.

9 Q That she was going to. All right. That's what I
10 wanted to clarify.

11 A Sure.

12 MR. EMMICK: Thank you.

13 A JUROR: When you said that in your conversations
14 with Linda Tripp you kind of had to exaggerate some things
15 about the President to her, you exaggerated on some of the
16 things you said to her about the President --

17 THE WITNESS: I'm not sure about that. I -- I
18 don't know if exaggerate is the right -- is maybe the word I
19 would choose.

20 A JUROR: Okay.

21 THE WITNESS: But go on. I'm sorry.

22 A JUROR: Well, no, I just used that word.

23 THE WITNESS: Okay.

24 A JUROR: Exaggerate. You didn't use it, but I
25 couldn't think of the exact words you used.

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1 THE WITNESS: Sure.

2 A JUROR: But were you -- why do you think that you
3 had to not tell her some things that din actually happen,
4 true things, in talking to her?

5 THE WITNESS: That really came about in relation to
6 the Paula Jones case. I think that I was -- there were some
7 occasions, one in particular that I remember, when I didn't
8 disclose a contact that I had with the President -- I'm
9 sorry, here -- I'll scoot over -- contact that I had with the
10 President to her for some reasons, but after the Paula Jones
11 case, I was scared to death. I mean, I was panicked that she
12 was going to tell.

13 So, I mean, I -- I -- you know, along the lines of,
14 you know, some of the things I said about Mr. Jordan, I said,
15 you know, "Oh, the President told me I have to lie," I don't
16 even remember everything I said, but I know that there were
17 certainly lies at that point, not even exaggerations.

18 MR. EMMICK: Actually, I was going to ask that
19 clarifying follow-up to that.

20 THE FOREPERSON: And then after that, we have to
21 take a break.

22 MR. EMMICK: And then we'll take a break.

23 BY MR. EMMICK:

24 Q The clarifying follow-up was that I had understood
25 that during that January period when you were talking to

1 Linda Tripp you were lying to her on occasion, but I wasn't
2 clear whether those lies related to times that you had been
3 with the President or whether they related to other things
4 generally. Do you understand what my question is?

5 A No.

6 Q What were the nature of the lies that you were
7 telling to Linda Tripp during that January period?

8 A Oh, gosh. They went from -- I guess a
9 non-disclosure of my meeting with him on the 28th, nor my
10 phone call with him on the 5th of January, to -- ranging to
11 things that he said I had to do or told me to do.

12 I haven't -- I haven't seen transcripts of those
13 days, thank goodness, but I just know that I was -- I was
14 scared to death. And I thought any influence that anybody
15 would have, my mother, Mr. Jordan, the President, anybody,
16 would -- I used.

17 MR. EMMICK: All right.

18 THE FOREPERSON: It's break time.

19 MR. EMMICK: Break time.

20 THE FOREPERSON: It's break time. It's break time.

21 A JUROR: I have a follow-up to that as well.

22 THE FOREPERSON: Okay. So we're going to take ten
23 minutes.

24 THE WITNESS: Okay.

25 THE FOREPERSON: And we'll come back.

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1 A JUROR: And what about the next sentence also?
2 Something to the effect that if two people who are involved
3 say it didn't happen, it didn't happen. Do you recall him
4 saying that to you?

5 THE WITNESS: Sitting here today, very vaguely. I
6 can hear -- I have a weird -- I'll explain to you guys that I
7 have a weird sense of -- for me, my saying I remember
8 something, if I can see it in my mind's eye or I can hear him
9 saying it to me, then I feel pretty comfortable saying that
10 that's pretty accurate, that I remember that. And I can hear
11 his voice saying that to me, I just can't place it.

12 A JUROR: Is it --

13 THE WITNESS: And this was -- I mean, this was
14 early -- this was all throughout our relationship. I mean,
15 it was -- obviously not something that we discussed too
16 often, I think, because it was -- it's a somewhat unpleasant
17 thought of having to deny it, having it even come to that
18 point, but --

19 A JUROR: Is it possible that you also had these
20 discussions after you learned that you were a witness in the
21 Paula Jones case?

22 THE WITNESS: I don't believe so. No.

23 A JUROR: Can you exclude that possibility?

24 THE WITNESS: I pretty much can. I really don't
25 remember it. I mean, it would be very surprising to me to be

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1 confronted with something that would show me different, but
2 I -- it was 2:30 in the -- I mean, the conversation I'm
3 thinking of mainly would have been December 17th, which
4 was --

5 A JUROR: The telephone call.

6 THE WITNESS: Right. And it was -- you know, 2:00,
7 2:30 in the morning. I remember the gist of it and I -- I
8 really don't think so.

9 A JUROR: Thank you.

10 A JUROR: I have some questions about the Paula
11 Jones lawsuit. Going back to the period before you even had
12 any idea that you might be a witness in that, did you follow
13 the Paula Jones lawsuit fairly closely?

14 THE WITNESS: I followed it. I don't know "fairly
15 closely," but -- I think it maybe depended more on was there
16 something in the paper and that happened to be a day that I
17 sat and read all the papers because I had nothing to do.

18 I did follow it, but I wasn't -- I didn't follow it
19 as much as I follow this case. I mean, in terms of -- no,
20 but I mean, I'm just saying as a gauge, you know.

21 A JUROR: So you were holding down a full-time job
22 and everything at that time, but you did read the papers --

23 THE WITNESS: I did read the papers every day and
24 it was -- sure, I followed it. I didn't know the ins and
25 outs of it, but I followed it.

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1 A JUROR: Did you -- in that period again, even
2 before anyone knew that you would be a witness, did you
3 discuss that with the President? Was he aware that you
4 followed it? Was that something --

5 THE WITNESS: No. Really, the time that I remember
6 we discussed it was on the 17th.

7 A JUROR: December 17th?

8 THE WITNESS: And when I told him my sort of stupid
9 idea for how he should settle it. So that was -- but, no.
10 He wasn't -- we didn't -- I -- and I think in general just to
11 give you guys a flavor, because there have been different
12 subjects that have come up, when we spent time together, I
13 know I certainly made an effort -- unless I was angry with
14 him about something, that there were topics that I wanted to
15 stay away from and the time that I spent with him was
16 precious to me. So things that were unpleasant I didn't
17 bring up unless I had to.

18 A JUROR: Exactly what date again did you get your
19 subpoena to be a witness?

20 THE WITNESS: The 19th of December.

21 A JUROR: The 19th? Okay. Now, when -- and if you
22 could retell for me the conversation you had with the
23 President about the gifts.

24 THE WITNESS: Okay. It was December 28th and I was
25 there to get my Christmas gifts from him. Excuse me. I'm

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1 sorry. And we spent maybe about five minutes or so, not very
2 long, talking about the case. And I said to him, "Well, do
3 you think -- "

4 What I mentioned -- I said to him that it had
5 really alarmed me about the hat pin being in the subpoena and
6 I think he said something like, "Oh," you know, "that sort of
7 bothered me, too. That bothered me," you know, "That bothers
8 me." Something like that.

9 And at one point, I said, "Well, do you think I
10 should -- " I don't think I said "get rid of," I said, "But
11 do you think I should put away or maybe give to Betty or give
12 to someone the gifts?"

13 And he -- I don't remember his response. I think
14 it was something like, "I don't know," or "Hm" or -- there
15 really was no response.

16 I know that I didn't leave the White House with any
17 notion of what I should do with them, that I should do
18 anything different than that they were sitting in my house.
19 And then later I got the call from Betty.

20 A JUROR: Now, did you bring up Betty's name or did
21 the President bring up Betty's name?

22 THE WITNESS: I think I brought it up. The
23 President wouldn't have brought up Betty's name because he
24 really didn't -- he didn't really discuss it, so either I
25 brought up Betty's name, which I think is probably what

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1 BY MR. EMMICK:

2 Q And I'm actually obliged to ask one follow up that
3 I don't think will be too bad, but directing your attention
4 to August 16th, did you attempt to touch the President on
5 that day?

6 A Yes.

7 Q And did you actually touch him? In his groin area?

8 A Over his clothes.

9 Q Over his clothes. And did he say that's not -- "We
10 can't do that"?

11 A Yes.

12 MR. EMMICK: Okay.

13 A JUROR: Did you feel any rejection the times that
14 he wouldn't go all the way with you?

15 THE WITNESS: Yes.

16 A JUROR: Monica, I had one question to go back to
17 the gifts. You had said that the President had called you
18 initially to come get your Christmas gift, you had gone
19 there, you had a talk, et cetera, and there was no -- you
20 expressed concern, the President really didn't say anything.
21 How much later in the afternoon did you get a call from
22 Betty? It was that same day, is that correct?

23 THE WITNESS: Yes, that's correct. Let me just
24 clarify real quickly that I had made the arrangements to go
25 there on Sunday through Betty, just that you had said he

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1 called me.

2 A JUROR: So you had initiated the contact on that
3 day?

4 THE WITNESS: He had -- he had told me on the 17th
5 that he -- you know, he still had these Christmas gifts for
6 me and then -- just shortly after Christmas and I called
7 Betty and said, you know, "He said he had something for me,"
8 something like that, you know. And then she arranged it. So
9 I just wanted to clarify.

10 A JUROR: And then how much of a time gap --

11 THE WITNESS: A few hours, maybe.

12 A JUROR: A few hours?

13 THE WITNESS: Maybe -- I think it was around
14 2:00 p.m. or so, around 2:00 in the afternoon, and I had gone
15 there at 8:30 in the morning and left -- I'd say maybe four
16 or five hours time span.

17 A JUROR: So what exactly happened? You went home
18 and you packaged these gifts? Or had you already had them
19 packaged?

20 THE WITNESS: No. I went home and I -- I think I
21 went to New York that evening, possibly, so I was getting
22 ready to go to New York, I think, or something.

23 But when Betty called, then she said, you know,
24 "I understand you have something to give me." It was very
25 vague. And I understood -- I mean, to me, that meant from

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1 caused so much trouble.

2 A JUROR: Which ones stick out in your mind as
3 having been untruthful?

4 THE WITNESS: Stuff about my mom. Just -- a lot of
5 different things about my mom. That I had -- that I told
6 Mr. Jordan I wouldn't sign the affidavit until I got a job.
7 That was definitely a lie, based on something Linda had made
8 me promise her on January 9th. Some of the other things --

9 A JUROR: Did you tell Linda Tripp at any time that
10 you had heard or understood that people don't go to jail for
11 perjury in a civil case?

12 THE WITNESS: Yes, I believe -- I think I said
13 that.

14 A JUROR: Did anybody tell you that?

15 THE WITNESS: Well, hmm.

16 A JUROR: Do you want to talk to -- I know
17 there's -- is there an attorney issue there?

18 THE WITNESS: There's an attorney issue.

19 A JUROR: I see.

20 MR. EMMICK: Do you want to take a break and talk
21 about the attorney issue? Because I think that may be a
22 way to figure out if we can answer that question any more
23 fully.

24 THE WITNESS: Do you want me to go talk to my
25 attorney?

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1 an appropriate time about the gifts. And, again, if you have
2 your proffer there?

3 THE WITNESS: Yes.

4 A JUROR: At the top of page 7, where you say in
5 your proffer that when Ms. Currie called later that afternoon
6 she said, at least I think you mean that she said that the
7 President had told her Ms. L wanted her to hold on to
8 something for her. Do you remember Betty Currie saying that
9 the President had told her to call?

10 THE WITNESS: Right now, I don't. I don't
11 remember, but when I wrote this, I was being truthful.

12 The other thing, and this is something that I was
13 thinking about this morning in relation to the proffer, that
14 I had written this proffer obviously being truthful, but I
15 think that when I wrote this, it was my understanding that
16 this was to bring me to the step of getting an immunity
17 agreement, and so I think that sometimes to -- that I didn't
18 know this was going to become sort of this staple document, I
19 think, for everything, and so there are things that can be
20 misinterpreted from in here, even from me re-reading it, the
21 conditions -- some of the conditions maybe under which I
22 wrote it.

23 So I just thought I should sort of say that, that
24 where -- I mean, I know -- I certainly was not untruthful or
25 trying to be misleading in this. I didn't think it was going

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1 to be -- this was my understanding of a written thing that I
2 would -- that I would attest to under oath and that it
3 wouldn't be number 7, read this, is this -- do you --

4 BY MR. EMMICK:

5 Q So it may not be written with legal precision?

6 A Exactly.

7 Q But there's no intentional falsehoods in it?

8 A No.

9 Q You were trying to be truthful throughout?

10 A Exactly.

11 A JUROR: And my purpose in raising it really is to
12 just see whether this might jog your recollection at all as
13 to something you might have recalled back in February that
14 you don't recall today.

15 THE WITNESS: It doesn't.

16 A JUROR: It does not?

17 THE WITNESS: It's possible, but -- I -- I -- it's
18 not my -- you know --

19 A JUROR: Okay.

20 THE WITNESS: -- my memory right now.

21 A JUROR: Any other questions on that subject?

22 A JUROR: If we don't have any other questions, I
23 guess the other thing that we wanted to ask you a little bit
24 about is when you were first approached by Mr. Emmick and his
25 colleagues at the OIC.

1 Can you tell us a little bit about how that
2 happened? That's not a happy topic, either, I apologize.

3 MR. EMMICK: Maybe if I could ask, what areas do
4 you want to get into? Because there's -- you know -- many
5 hours of activity --

6 A JUROR: Well, one specific -- okay. One specific
7 question that people have is when did you first learn that
8 Linda Tripp had been taping your phone conversations?

9 THE WITNESS: I believe that I didn't learn the
10 extent to which she had taped my conversations, until I read
11 it in the press.

12 I learned that day that she had worn a wire at the
13 lunch and that I -- and that there had been other people, I
14 think, in the restaurant that had been listening in and -- so
15 I knew -- she had -- she had said that -- that -- when I was
16 first apprehended, she was -- she had said that they had done
17 the same thing to her and she tried to hug me and she told me
18 this was the best thing for me to do and -- oh.

19 MR. EMMICK: Any other specific questions about
20 that day? I just -- this was a long day. There were a lot
21 of things that --

22 A JUROR: We want to know about that day.

23 A JUROR: That day.

24 A JUROR: The first question.

25 A JUROR: Yes.

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1 A JUROR: We really want to know about that day.

2 MR. EMMICK: All right.

3 THE WITNESS: Linda was supposed to go see this new
4 attorney that she had claimed she had gotten and was going to
5 try to sign an affidavit so she paged me in the morning, I
6 called her back and she told me she wanted to meet me before
7 she went to see the attorney. So we planned to meet at the
8 Ritz Carlton in the food court at -- I think it was quarter
9 to one.

10 She was late. I saw her come down the escalator.
11 And as I -- as I walked toward her, she kind of motioned
12 behind her and Agent [REDACTED] and Agent [REDACTED] presented
13 themselves to me and --

14 A JUROR: Do you want to take a minute?

15 THE WITNESS: And flashed their badges at me.
16 They told me that I was under some kind of investigation,
17 something had to do with the Paula Jones case, that they --
18 that they wanted to talk to me and give me a chance, I think,
19 to cooperate, maybe.

20 I -- to help myself. I told them I wasn't speaking
21 to them without my attorney.

22 They told me that that was fine, but I should know
23 I won't be given as much information and won't be able to
24 help myself as much with my attorney there. So I agreed to
25 go. I was so scared.

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1 (The witness begins crying.)
2 A JUROR: So, Monica, did you go to a room with
3 them at that time?
4 THE WITNESS: Yes.
5 A JUROR: And at that time, did you talk to anybody
6 or what did you do? Did you want to call your mother?
7 THE WITNESS: Can Karen do the questioning now?
8 This is -- can I ask you to step out?
9 MR. EMMICK: Sure. Okay. All right.
10 MS. IMMERGUT: I guess, Monica, if Mike could just
11 stay -- do you mind if Mike is in here?
12 THE WITNESS: (Nods affirmatively.)
13 MS. IMMERGUT: Okay. Would you rather --
14 THE WITNESS: (Nods affirmatively.)
15 MR. EMMICK: Okay. That's fine.
16 BY MS. IMMERGUT:
17 Q Okay. Did you go to a room with them at the hotel?
18 A Yes.
19 Q And what did you do then? Did you ever tell them
20 that you wanted to call your mother?
21 A I told them I wanted to talk to my attorney.
22 Q Okay. So what happened?
23 A And they told me -- Mike came out and introduced
24 himself to me and told me that -- that Janet Reno had
25 sanctioned Ken Starr to investigate my actions in the Paula

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1 Jones case, that they -- that they knew that I had signed a
2 false affidavit, they had me on tape saying I had committed
3 perjury, that they were going to -- that I could go to jail
4 for 27 years, they were going to charge me with perjury and
5 obstruction of justice and subornation of perjury and witness
6 tampering and something else.

7 Q And you're saying "they," at that point, who was
8 talking to you about that stuff?

9 A Mike Emmick and the two FBI guys. And I made Linda
10 stay in the room. And I just -- I felt so bad.

11 Q Now, when you say you felt bad, because you felt
12 responsible somehow for pulling the President into something?

13 A Yes.

14 Q And is that something that still weighs heavily on
15 you, that you feel responsible?

16 A Yes.

17 Q And is it -- do you feel responsible because you
18 told Linda about your relationship?

19 A Yes.

20 Q I guess later just to sort of finish up, I guess,
21 with the facts of that day, was there a time then that you
22 were -- you just waited with the prosecutors until your
23 mother came down?

24 A No.

25 Q Okay.

1 A I mean, there was, but they -- they told me they
2 wanted me to cooperate. I asked them what cooperating meant,
3 it entailed, and they told me that -- they had -- first they
4 had told me before about that -- that they had had me on tape
5 saying things from the lunch that I had had with Linda at the
6 Ritz Carlton the other day and they -- then they told me that
7 I -- that I'd have to agree to be debriefed and that I'd have
8 to place calls or wear a wire to see -- to call Betty and
9 Mr. Jordan and possibly the President. And --

10 Q And did you tell them you didn't want to do that?

11 A Yes. I -- I -- I remember going through my mind, I
12 thought, well, what if -- you know, what if I did that and I
13 messed up, if I on purpose -- you know, I envisioned myself
14 in Mr. Jordan's office and sort of trying to motion to him
15 that something had gone wrong. They said that they would
16 be watching to see if it had been an intentional mistake.

17 Then I wanted to call my mom and they kept telling
18 me that they didn't -- that I couldn't tell anybody about
19 this, they didn't want anyone to find out and that they
20 didn't want -- that was the reason I couldn't call
21 Mr. Carter, was because they were afraid that he might tell
22 the person who took me to Mr. Carter.

23 They told me that I could call this number and get
24 another criminal attorney, but I didn't want that and I
25 didn't trust them. Then I just cried for a long time.

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1 A JUROR: All while you were crying, did they keep
2 asking you questions? What were they doing?

3 THE WITNESS: No, they just sat there and then --
4 they just sort of sat there.

5 A JUROR: How many hours did this go on?

6 THE WITNESS: Maybe around two hours or so. And
7 then they were -- they kept saying there was this time
8 constraint, there was a time constraint, I had to make a
9 decision.

10 And then Bruce Udolf came in at some point and
11 then -- then Jackie Bennett came in and there were a
12 whole bunch of other people and the room was crowded and he
13 was saying to me, you know, you have to make a decision.
14 I had wanted to call my mom, they weren't going to let me
15 call my attorney, so I just -- I wanted to call my mom and
16 they --

17 Then Jackie Bennett said, "You're 24, you're smart,
18 you're old enough, you don't need to call your mommy."

19 And then I said, "Well, I'm letting you know that
20 I'm leaning towards not cooperating," you know.

21 And they had told me before that I could leave
22 whenever I wanted, but it wasn't -- you know, I didn't -- I
23 didn't really know -- I didn't know what that meant. I mean,
24 I thought if I left then that they were just going to arrest
25 me.

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1 And so then they told me that I should know that
2 they were planning to prosecute my mom for the things that I
3 had said that she had done.

4 (The witness begins crying.)

5 MS. IMMERGUT: Do you want to take a break, Monica?

6 THE WITNESS: Yes.

7 (Witness excused. Witness recalled.)

8 THE FOREPERSON: Okay. We have a quorum. There
9 are no unauthorized people and Monica is already aware that
10 she is still under oath.

11 MS. IMMERGUT: We just have a couple more questions
12 and then I think we'll break for lunch.

13 THE WITNESS: Okay.

14 A JUROR: Monica, I have a question. A minute ago
15 you explained that the reason why you couldn't call Mr.
16 Carter was that something might be disclosed. Is that right?

17 THE WITNESS: It was -- they sort of said that --
18 you know, I -- I -- I could call Frank Carter, but that they
19 may not -- I think it was that -- you know, the first time or
20 the second time?

21 A JUROR: Any time.

22 THE WITNESS: Well, the first time when I asked,
23 that I said I wasn't going to talk to them without my lawyer,
24 they told me that if my lawyer was there, they wouldn't give
25 me as much information and I couldn't help myself as much, so

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1 that --

2 A JUROR: Did they ever tell you that you could not
3 call Mr. Carter?

4 THE WITNESS: No. What they told me was that if I
5 called Mr. Carter, I wouldn't necessarily still be offered an
6 immunity agreement.

7 A JUROR: And did you feel threatened by that?

8 THE WITNESS: Yes.

9 A JUROR: And you said they offered you a chance to
10 call another attorney?

11 THE WITNESS: Yes.

12 A JUROR: And did you take them up on that offer?

13 THE WITNESS: No.

14 A JUROR: Why not?

15 THE WITNESS: Because I didn't trust them.

16 A JUROR: I see. And at some point in this
17 meeting, did you -- you did obtain an attorney?
18 Mr. Ginsberg?

19 THE WITNESS: Well, like at 11:00 that night.

20 A JUROR: So it was seven hours or eight hours or
21 more later?

22 THE WITNESS: They -- they finally let me call my
23 mom, so I went to call my mom and then -- and I saw Linda
24 again. She had been shopping or something like that. But I
25 called my mom and then Mike had said that she could call him,

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1 so they called her or she called him or something like that
2 and then they agreed to let her come down.

3 So she took the train and then -- and then he just
4 sort of -- I shut down and I kind of -- you know, I thought
5 maybe I should try and make these people like me, so I tried
6 to be nice and I told jokes and I asked if we could walk
7 around the mall because I couldn't sit in that room any more.
8 And I just --

9 BY MS. IMMERGUT:

10 Q So did they let you do that?

11 A Mm-hmm. So Mike and Agent [REDACTED] took me and we
12 walked around the mall and we ate dinner and then we went
13 back to the room and I read Psalm 21 about a million times.
14 And my mom's train had been -- there were problems with her
15 train and then finally she got there and they told me they
16 were going to want to talk to my mom alone for a little bit,
17 but I got to talk to her.

18 And I was -- I didn't -- I didn't want to
19 cooperate. I mean, I didn't -- I just kept thinking to
20 myself, well -- well, I'll just say I made it all up, I'll
21 just -- I'll just -- I -- I couldn't imagine -- I couldn't
22 imagine doing this to the President. And I felt so wrong and
23 guilty for having told Linda and that she had done all this.

24 But -- so then they took my mom into another room
25 for a really long time and she had -- then when she came

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1 back, they called my dad. And then we finally -- and then I
2 talked to my dad and then -- then -- Ginsberg came on the
3 scene. And he --

4 A JUROR: So if I understand it, you first met the
5 agents, Agents [REDACTED] and [REDACTED], at around 1:00 and it wasn't
6 until about 11 p.m. that you had an opportunity to talk to a
7 lawyer?

8 THE WITNESS: Yes.

9 BY MS. IMMERGUT:

10 Q Although you were allowed to -- the thing with
11 Frank Carter was that they were afraid he would tell Vernon
12 Jordan? Is that what they expressed to you?

13 A Right. And I had -- I had -- I think that someone
14 said that Frank wasn't even -- Frank was a civil attorney and
15 so that he really couldn't help me anyway, so I asked him if
16 at least I could call and ask him for a recommendation for a
17 criminal attorney and they didn't think that was a good idea.

18 And then I said, well, what about -- if I want to
19 get in touch with Mr. Carter later, if I decide that's what I
20 want to do, you know, and he's not there, because it's Friday
21 and it was a holiday weekend, so then Agent Fallon went in
22 the other room to find out if he had a service or something
23 or another, a pager, I don't know --

24 Q Some way for you to reach him later?

25 A Mm-hmm.

1 A JUROR: Sounds as though they were actively
2 discouraging you from talking to an attorney.

3 THE WITNESS: Yes.

4 A JUROR: Is that a fair characterization?

5 THE WITNESS: Yes.

6 BY MS. IMMERGUT:

7 Q Well, from Frank Carter.

8 A From Frank Carter, who was my only attorney at that
9 point.

10 MS. IMMERGUT: Right. Right.

11 THE WITNESS: So I could have called any other
12 attorney but --

13 A JUROR: You didn't have another attorney.

14 THE WITNESS: I didn't have another attorney and
15 this was my attorney for this case, so -- I mean, this was --

16 A JUROR: And this is the attorney who had helped
17 you with the affidavit.

18 THE WITNESS: Yes. And that -- the affidavit --
19 well, the affidavit wasn't even filed yet. It was Fed Ex'd
20 out on that day. So --

21 A JUROR: Monica, when you called your mother, how
22 much were you able to tell her over the phone? Very little
23 or --

24 THE WITNESS: I was hysterical. She didn't
25 understand what I was saying, but I told her that -- that the

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1 FBI had me and there was something with the Paula Jones case
2 and Linda and then she -- she -- I said that -- that the guy
3 said you could call her -- you can call him and so she just
4 told me to calm down and I was screaming that, you know,
5 "They want me to cooperate and I don't want to cooperate,
6 don't make me cooperate, don't make me do this," and she --
7 she said it was okay, don't worry, don't worry, and then she
8 talked to Mike Emmick and they let her come down. So, I
9 mean, she -- I don't know.

10 A JUROR: Did you feel better after you talked to
11 your mother?

12 THE WITNESS: Oh, yeah.

13 A JUROR: Gained that support?

14 THE WITNESS: Yeah.

15 A JUROR: Okay.

16 THE WITNESS: Yeah. I mean --

17 A JUROR: And what were you thinking about Linda at
18 this time?

19 THE WITNESS: Linda? Did you say --

20 A JUROR: Mm-hmm. Did you know exactly what had
21 happened? That you had been --

22 THE WITNESS: No. I was under the impression
23 that -- what I was thinking at that point was that they
24 had -- that they had listened in on our conversation on the
25 phone and that then they came to her and said she was in

1 trouble for something and that then she let them listen in on
2 this lunch conversation because she had said "They did the
3 same thing to me. They did the same thing to me." So I
4 didn't understand what she meant by that.

5 And then she said, "This is the best thing for
6 you," as if I was left to believe that she had -- this was
7 somehow something she had done and that she was trying to
8 help me.

9 And I thought, "Why did she tell them? Why didn't
10 she just say it was nonsense, it wasn't true? Why did she
11 tell them that I had had this relationship with him?" And
12 so -- you know -- and they had pictures of me at lunch with
13 her. So --

14 A JUROR: The pictures were the taped lunch?

15 THE WITNESS: Yes. The wire lunch.

16 A JUROR: The wired lunch.

17 THE WITNESS: Yes. So that -- because they --
18 because I had said on one of the tapes that -- you know, if
19 there was a tape of me -- I had -- I had -- I didn't know how
20 the Paula Jones people had gotten my name and I thought maybe
21 they had tapped my phone or maybe they had broken into my
22 computer and read my e-mails.

23 I didn't know how I had gotten involved in this
24 case and so I had said to Linda, "Well, if they have me on
25 tape, I'll just say it's not me. I'll just say it's not me.

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1 I'll deny it. I'll deny everything."

2 A JUROR: So they took pictures.

3 THE WITNESS: Right. So they said, "We have you on
4 tape saying that you'd deny it and we have pictures to prove
5 that you were there." So --

6 A JUROR: During this time in the hotel with them,
7 did you feel threatened?

8 THE WITNESS: Yes.

9 A JUROR: Did you feel that they had set a trap?

10 THE WITNESS: I -- I -- I did and I had -- I didn't
11 understand -- I didn't understand why they -- why they had to
12 trap me into coming there, why they had to trick me into
13 coming there. I mean, this had all been a set-up and that
14 why -- I mean, that was just so frightening. It was so
15 incredibly frightening.

16 And they told me, you know, over and over again I
17 was free to leave whenever I wanted, but -- I -- I didn't --
18 I didn't know that there's a grand jury and indicted and then
19 you go to jail. I mean, and a trial and everything. I
20 didn't understand that.

21 And so I didn't -- you know, then there was
22 something that, well, if I partially cooperate, they'll talk
23 to the judge, some -- you know, we're prepared to indict you
24 or something like that for all these things. And I just
25 didn't --

1 BY MS. IMMERGUT:

2 Q So you didn't know what would happen if you left.

3 A No. And then it wasn't until my mom was there that
4 Mike Emmick cleared it up and said to my mom, "Well, it's not
5 that we'll arrest you tonight when you leave the hotel." You
6 know. Because I didn't -- I didn't know.

7 Q And you didn't end up cooperating that evening.

8 A No, I didn't. Because -- well --

9 A JUROR: Excuse me. When you said they trapped
10 you, you went there on the invitation of Linda for lunch or
11 something?

12 THE WITNESS: Yes.

13 A JUROR: So, I mean, how did -- I mean, in your
14 mind, how did you get to the fact that they were the one?
15 Wasn't it just Linda?

16 THE WITNESS: No, because they were with Linda.
17 When I met Linda in the food court at Pentagon City, the two
18 agents were with her.

19 A JUROR: Oh, okay.

20 THE WITNESS: Yeah. And that's where -- so it was
21 right -- have you ever been to Pentagon City mall?

22 A JUROR: Mm-hmm.

23 THE WITNESS: So it was right down in the food
24 court, you know the escalator to come down is over here?

25 A JUROR: Mm-hmm.

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1 THE WITNESS: So -- see, they were with her when
2 she met me right -- right in the middle.

3 A JUROR: Okay.

4 THE WITNESS: And that's where -- and then --
5 (Pause.)

6 A JUROR: I think that's all the questions on that
7 topic. There is one other question.

8 Going back to Monday night and the President's
9 speech, what did you want or expect to hear from the
10 President?

11 THE WITNESS: I think what I wanted and expected
12 were two different things. I had -- I had been hurt when he
13 referred to me as "that woman" in January, but I was also
14 glad. I was glad that he made that statement and I felt that
15 was the best thing for him to do, was to deny this. And --
16 but I had been hurt. I mean, it showed me how angry he was
17 with me and I understood that.

18 And his -- the people who work for him have trashed
19 me, they claim they haven't said anything about me, they have
20 smeared me and they called me stupid, they said I couldn't
21 write, they said I was a stalker, they said I wore
22 inappropriate clothes, I mean, you all know.

23 I mean, you've heard them in here, you've read the
24 papers, you've seen on TV, and yet -- and then when it came
25 out about the talking points, then somehow no one ever asked

1 the question, well, how could -- if she was so stupid and she
2 couldn't write, how is it possible that she wrote the talking
3 points? So then it was, well, someone must have helped her
4 with that. Oh, it's okay, though, it wasn't someone in the
5 White House.

6 So I just -- my family had been maligned because of
7 a lot of their tactics and I felt that -- I had wanted him to
8 say that I was a nice, decent person and that he was sorry
9 this had happened because I -- I tried to do as much as I
10 could to protect him.

11 I mean, I didn't -- I didn't -- I didn't allow him
12 to be put on tape that night and I didn't -- and I -- I felt
13 that I waited, you know, and I would have gone to trial
14 had -- had -- in my mind, had there never been a point where
15 the Office of the Independent Counsel and myself could come
16 to -- they could come to accept the truth I had to say, that
17 that was the truth I had to give, and I'm only 24 and so I
18 felt that I -- this has been hard for me and this has been
19 hard on my family and I just wanted him to take back -- by
20 saying something nice, he would have taken back every
21 disgusting, horrible thing that anyone has said about me from
22 that White House. And that was what I wanted.

23 What I expected him to do was to just acknowledge
24 in his -- either in his apology -- you know, that first of
25 all I think he should have straight out apologized and I

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1 think that he could have acknowledged that -- you know,
2 apologized to me, I think, to the other people who were
3 involved in this and to my family.

4 My -- my dad didn't know anything about the
5 relationship and when he went on his -- the few interviews he
6 did, he was telling the truth when he said he didn't know.
7 But out of respect for the President and the presidency, he
8 didn't say -- he could have easily said if this is true, X, Y
9 and Z about the President, and I think that because my family
10 didn't start a huge uproar about how wrong or improper or
11 inappropriate it was for a 50-year-old man to be having a
12 relationship with a young woman, we afforded him that, that
13 was one less headache that he had to deal with, and I think
14 he could have acknowledged that. That was what I expected.
15 Does that --

16 A JUROR: Monica, none of us in this room are
17 perfect. We all fall and we fall several times a day. The
18 only difference between my age and when I was your age is now
19 I get up faster. If I make a mistake and fall, I get up and
20 brush myself off. I used to stay there a while after a
21 mistake. That's all I have to say.

22 THE WITNESS: Thank you.

23 MS. IMMERGUT: Let me just check with Mike.

24 THE FOREPERSON: We do want to share something with
25 her.

1 MS. IMMERGUT: Okay. So do you want to -- why
2 don't we hold off for just a second and let me check with
3 Mr. Emmick.

4 THE FOREPERSON: Okay.

5 (Pause.)

6 MS. IMMERGUT: We don't have any further questions.

7 A JUROR: Could I ask one?

8 Monica, is there anything that you would like to
9 add to your prior testimony, either today or the last time
10 you were here, or anything that you think needs to be
11 amplified on or clarified? I just want to give you the
12 fullest opportunity.

13 THE WITNESS: I would. I think because of the
14 public nature of how this investigation has been and what the
15 charges aired, that I would just like to say that no one ever
16 asked me to lie and I was never promised a job for my
17 silence.

18 And that I'm sorry. I'm really sorry for
19 everything that's happened. (The witness begins to cry.)
20 And I hate Linda Tripp.

21 A JUROR: Can I just say -- I mean, I think I
22 should seize this opportunity now, that we've all fallen
23 short. We sin every day. I don't care whether it's murder,
24 whether it's affairs or whatever. And we get over that. You
25 ask forgiveness and you go on.

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1 There's some that are going to say that they don't
2 forgive you, but he whose sin -- you know -- that's how I
3 feel about that. So to let you know from here, you have my
4 forgiveness. Because we all fall short.

5 A JUROR: And that's what I was trying to say.

6 A JUROR: That's what it's about.

7 THE WITNESS: Thank you.

8 A JUROR: And I also want to say that even though
9 right now you feel a lot of hate for Linda Tripp, but you
10 need to move on and leave her where she is because whatever
11 goes around comes around.

12 A JUROR: It comes around.

13 A JUROR: It does.

14 A JUROR: And she is definitely going to have to
15 give an account for what she did, so you need to just go past
16 her and don't keep her because that's going to keep you out.

17 A JUROR: That's right.

18 A JUROR: And going to keep you from moving on.

19 A JUROR: Allowing you to move on.

20 BY MS. IMMERGUT:

21 Q And just to clarify, and I know we've discussed
22 this before, despite your feelings about Linda Tripp, have
23 you lied to this grand jury about anything with regard to
24 Linda Tripp because you don't like her?

25 A I don't think that was necessary. No. It wouldn't

1 have been necessary to lie. I think she's done enough on her
2 own, so --

3 Q You would not do that just because of your feelings
4 about her.

5 A No.

6 THE FOREPERSON: Basically what we wanted to leave
7 with, because this will probably be your last visit to us, I
8 hope, I hope I'm not going to have to do this any more and I
9 hope you won't have to come here any more, but we wanted to
10 offer you a bouquet of good wishes that includes luck,
11 success, happiness and blessings.

12 THE WITNESS: Thank you. (The witness begins to
13 cry.) I appreciate all of your understanding for this
14 situation and your -- your ability to open your heart and
15 your mind and -- and your soul. I appreciate that.

16 THE FOREPERSON: So if there's nothing else?

17 MR. EMMICK: Nothing else.

18 THE FOREPERSON: We'd like to excuse you and thank
19 you very much for your testimony.

20 THE WITNESS: Thank you.

21 (The witness was excused.)

22 (Whereupon, at 12:54 p.m., the taking of testimony
23 in the presence of a full quorum of the Grand Jury was
24 concluded.)

25 * * * * *

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/23/98

On January 16, 1998, SSA [REDACTED] and SA [REDACTED] approached MONICA LEWINSKY in the food court area of the Pentagon City, Mall Arlington, Virginia. SSA [REDACTED] immediately identified himself and SA [REDACTED] as agents of the Federal Bureau of Investigation (FBI), detailed to the Office of the Independent Counsel (OIC) for "Whitewater" and requested her presence in a room of the Ritz Carlton Hotel to discuss her status as a person suspected of committing a federal crime. LEWINSKY was advised OIC attorneys were waiting in the room, and that the agents and the attorneys wished to discuss her culpability in criminal activity related to the PAULA JONES civil lawsuit. LEWINSKY was advised she was not under arrest and the agents would not force her to accompany them to the hotel room. LEWINSKY told SSA [REDACTED] he could speak to her attorney. SSA [REDACTED] advised the offer to discuss her legal status was not being offered to her attorney, but to LEWINSKY alone. SSA [REDACTED] explained to LEWINSKY she was being offered an opportunity to meet with the OIC attorneys and agents and hear them explain why they felt she was in trouble without being required to make any statement. SSA [REDACTED] further explained LEWINSKY would then have an opportunity to ask clarifying questions of the attorneys and be better informed as to whether she wanted legal counsel before making any statements, or whether she thought it better to cooperate with the OIC. LEWINSKY voluntarily accompanied the agents to room number 1012 of the Ritz Carlton hotel, under the conditions set forth above.

Also present in room 1016, the adjoining room, were Associate Independent Counsel (AIC) BRUCE UDOLF, AIC MICHAEL EMMICK, AIC STEVEN D. BINHAK, Deputy Independent Counsel JACKIE M. BENNETT, JR., AIC STEPHEN BATES and Contract Investigator COY A. COPELAND, all members of the Office of the Independent Counsel staff. At various times during the day, OIC attorneys entered and departed room 1012. Their movement is not recorded herein. The chronology of the meeting, with all times approximate, is as follows:

1:05 p.m. LEWINSKY arrived in Room 1012. AIC EMMICK entered Room 1012 and began talking to LEWINSKY.
1:10 p.m. LEWINSKY given bottled water.

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SA [REDACTED] SSA [REDACTED]
by SA [REDACTED] Date dictated 1/23/98

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1:33 p.m. SSA [REDACTED] began reading LEWINSKY her rights as found on the form FD-395, "Interrogation; Advice of Rights." SSA [REDACTED] was unable to finish reading the FD-395.

1:40 p.m. LEWINSKY was offered a towel.

1:47 p.m. LEWINSKY was offered water.

2:02 p.m. The air conditioning in room 1012 was turned on at LEWINSKY's request.

2:13 p.m. LEWINSKY was offered water.
LEWINSKY said, "if I don't cooperate, I can talk to whomever I want".

2:15 p.m. SA [REDACTED] arrived in room 1012.

2:29 p.m. LEWINSKY stated, "if I leave now, you will charge me now."

2:30 p.m. LEWINSKY said, "I don't know much about the law."

2:33 p.m. LEWINSKY asked and was allowed to go to the restroom.

2:36 p.m. LEWINSKY requested and was given her second bottle of water. LEWINSKY said she is not diabetic and no medication was necessary.

2:50 p.m. LEWINSKY suggested she take a taxi to her attorney's office. LEWINSKY advised she understands our risks.

3:10 p.m. LEWINSKY asked if she could be escorted to New York to see her mother, MARCIA LEWIS.

3:20 p.m. LEWINSKY called her mother, MARCIA LEWIS, in New York.

3:36 p.m. LEWINSKY requested and was allowed to go to the restroom.

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3:45 p.m. LEWINSKY departed room 1012 unescorted.

3:54 p.m. LEWINSKY called room 1012 and advised that she was in the lobby, using a pay phone. LEWINSKY advised she changed phones she was using because some people came too close to the phone she had been using. LEWINSKY advised she called to let the Agents know, in case she was being watched.

4:08 p.m. LEWINSKY voluntarily returned to room 1012. LEWINSKY offered and accepted coffee.

4:12 p.m. LEWINSKY called MARCIA LEWIS. LEWIS requested to speak with an OIC attorney. AIC EMMICK and SA [REDACTED] got on the phone and identified themselves to LEWIS. LEWIS advised she would travel to Washington, DC via AMTRAK Metroliner.

4:20 p.m. LEWINSKY left room 1012 with AIC BINHAK and SA [REDACTED] to use a pay phone in the lobby of the Ritz Carlton Hotel.

4:31 p.m. LEWINSKY, AIC BINHAK and SA [REDACTED] returned to room 1012.

5:00 p.m. LEWINSKY called her answering machine to retrieve messages.

5:21 p.m. LEWINSKY requested and received aspirin.

5:40 p.m. LEWINSKY, AIC EMMICK and SA [REDACTED] departed room 1012, en route to the Pentagon City Mall. LEWINSKY, AIC EMMICK and SA [REDACTED] walked in the mall.

6:03 p.m. LEWINSKY requested and was permitted to visit the restroom on the third level of the MACY's department store in the mall.

6:30 p.m. LEWINSKY, AIC EMMICK and SA [REDACTED] dined at MOZZARELLA'S American Grill, within the Pentagon City Mall. LEWINSKY paid for her portion of the dinner.

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7:35 p.m. LEWINSKY, AIC EMMICK and SA [REDACTED] returned to room 1012.

8:00 p.m. LEWINSKY paid \$2 to SA [REDACTED] for the cost of her coffee.

8:19 p.m. MARCIA LEWIS telephoned room 1012, and advised she was on the "163 Northeast Direct", and was experiencing travel delays.

9:05 p.m. LEWINSKY, SSA [REDACTED], and SA [REDACTED] departed room 1012 and LEWINSKY withdrew money from the automatic teller machine on the first floor at the Pentagon City Mall.

9:30 p.m. Coffee was ordered and brought to room 1012 by room service.

10:16 p.m. MARCIA LEWIS arrived and all members of the OIC staff left LEWIS and LEWINSKY alone.

10:20 p.m. A meeting was held in room 1018 between LEWIS, AIC EMMICK, SSA [REDACTED] and SA [REDACTED].

LEWIS advised that this was an emotional experience for LEWINSKY. LEWIS advised LEWINSKY was younger than her chronological age. LEWIS asked if tapes were admissible in court. LEWIS advised she wanted to protect LEWINSKY. LEWIS asked how she would know LEWINSKY would not be charged if she cooperated. LEWIS asked about LEWINSKY's safety if LEWINSKY cooperated. LEWIS advised that LEWINSKY talked about suicide six years ago. After LEWINSKY's parents divorced, LEWINSKY saw a therapist, but she is not currently seeing one. LEWIS advised she alone could not take responsibility for convincing LEWINSKY to cooperate with the OIC.

11:02 p.m. LEWIS requested and was permitted a trip to the restroom.

11:06 p.m. LEWIS telephonically contacted BERNARD LEWINSKY, her ex-husband, at [REDACTED].

11:20 p.m. BERNARD LEWINSKY telephoned room 1018.

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11:22 p.m. AIC EMMICK talked to BERNARD LEWINSKY. Cooperation, an interview, telephone calls, body wires and testimony were mentioned. AIC EMMICK advised BERNARD LEWINSKY that MONICA LEWINSKY was free to leave anytime she wished.

11:30 p.m. MONICA LEWINSKY entered room 1018.

11:32 p.m. MARCIA LEWIS got back on the phone with BERNARD LEWINSKY. BERNARD LEWINSKY advised he would go to a pay phone and would call back.

11:35 p.m. BERNARD LEWINSKY telephoned room 1014. BERNARD LEWINSKY advised AIC EMMICK that MONICA LEWINSKY was represented by counsel.

11:36 p.m. MONICA LEWINSKY talked to BERNARD LEWINSKY on the telephone.

11:37 p.m. AIC EMMICK spoke with BERNARD LEWINSKY. AIC EMMICK asked MONICA LEWINSKY if she had an attorney and LEWINSKY advised it was GINSBURG.

AIC EMMICK advised MONICA LEWINSKY she did not have to accept an attorney she did not select.

MONICA LEWINSKY asked if there was still a chance she would go to jail if she cooperated. MONICA LEWINSKY suggested she may have not told the truth in previous conversations. MONICA LEWINSKY asked, "what if I partially cooperate?"

MARCIA LEWIS asked what would happen if MONICA LEWINSKY gave everything but did not tape anything. MONICA LEWINSKY asked if the PAULA JONES case went away would "this" go away and was advised by AIC EMMICK "no."

MONICA LEWINSKY asked how the OIC would resolve the chance that MONICA LEWINSKY said something to LINDA TRIP that was not true.

MARCIA LEWIS advised that she appreciated the OIC

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members waiting until she arrived to proceed. MONICA LEWINSKY advised she appreciated having her mother present.

11:55 p.m. BILL GINSBURG telephoned room 1018 and spoke to AIC EMMICK, who advised GINSBURG he was uncomfortable with the relationship between GINSBURG and MONICA LEWINSKY. MONICA LEWINSKY advised she was not 100% sure it was the right thing to do because GINSBURG was a medical lawyer.

11:59 p.m. MONICA LEWINSKY advised she was represented by GINSBURG.

12:08 a.m. GINSBURG was advised by AIC EMMICK that MONICA LEWINSKY always had the right to leave at any time.

12:17 a.m. MONICA LEWINSKY spoke with GINSBURG, outside the presence of the OIC staff.

12:23 a.m. AIC EMMICK ended the phone call with GINSBURG and advised MONICA LEWINSKY and MARCIA LEWIS they were free to leave.

12:30 a.m. MARCIA LEWIS and MONICA LEWINSKY thanked the Agents and the staff of the OIC for being so kind and considerate.

12:45 a.m. SA [REDACTED] and SA [REDACTED] escorted MARCIA LEWIS and MONICA LEWINSKY to LEWINSKY's vehicle, which was parked in the parking garage adjacent to the Pentagon City Mall.

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prostitute. The President completed the call and hung up. The oral sex was discontinued when the President answered, "Just a minute" as a result of HAROLD ICKES calling out, "Mr. President" from the door of the Oval Office. LEWINSKY had her top off. The President left the room and LEWINSKY departed through the back door after putting her top back on.

After the President won the election, LEWINSKY renewed her efforts to get back to the White House. The President advised LEWINSKY that he would talk to BOB NASH and told her at other times that both MARSHA SCOTT and NASH were working on it. LEWINSKY had given her resume to the President in March 1997. LEWINSKY applied for a job in the White House Press Office and LINDA TRIPP arranged an NSC (National Security Council) interview. LEWINSKY advised MARSHA SCOTT of her applications, but she did not get either job. When LEWINSKY told the President that she had applied for these jobs, the President retorted that he needed to know in advance so that he could do something.

By October 1997, LEWINSKY told the President that she had made up her mind to leave the Pentagon job and move to New York. LEWINSKY mentioned a job at the United Nations (UN). The President said that he would help, and he apparently spoke to JOHN PODESTA, who spoke to BILL RICHARDSON on a trip to Mexico. Ambassador RICHARDSON called LEWINSKY and set up an interview at the Watergate Hotel. Subsequently, RICHARDSON called LEWINSKY at the Pentagon and offered her the job at the UN. LEWINSKY, who had changed her mind about working at the UN, but did not know how to back out, called one of RICHARDSON's assistants and advised that she was more interested in working in the private sector.

LINDA TRIPP suggested to LEWINSKY that the President should be asked to ask VERNON JORDAN for assistance. In early October 1997, while talking to the President on the telephone from 2:30 a.m. to 4:00 a.m., LEWINSKY asked the President to call JORDAN and the President did. This long conversation included an argument about why the President was not bringing LEWINSKY back to the White House.

LEWINSKY was a willing participant in all of the sexual encounters. LEWINSKY and the President had discussed a number of times that they would never tell anyone about their sexual activities. However, in violation of this agreement, LEWINSKY did provide different levels of detail about the sexual relationship to the following persons: ANDY BLEILER, NATALIE UNGVARI, NEYSA ERELAND, ASHLEY RAINES, CATHRYN ALDAY DAVIS, LINDA

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received a telephone call at her apartment from BETTY CURRIE who made the statement, "You have some things to give me?" This call was not a coincidence, but a result of LEWINSKY's earlier conversation with the President. The call may have been on CURRIE's cell phone. LEWINSKY put a GAP box on her bed and placed in it a number of gifts that she had received from the President, except for some innocuous items that would not appear too personal if found in her apartment. The reason for getting some of the gifts out of the apartment was because LEWINSKY suspected that the lawyers for JONES would break into her apartment. LEWINSKY also suspected that the JONES people might tap her telephone. Besides keeping the innocuous gift items, LEWINSKY also kept some of the sentimental items from the President such as the following: a canvas bag from the BLACK DOG store, maybe some BLACK DOG T-shirts, a lithographic book, a big Rockette blanket, a pair of sunglasses, and a wooden box that had contained an earlier present. LEWINSKY kept the sentimental items because she was afraid that she would not get them back. Pursuant to the agreement that LEWINSKY and CURRIE had made during the earlier telephone call, LEWINSKY met CURRIE on 28th street outside LEWINSKY's apartment at about 2:00 p.m. and gave CURRIE the box of gifts. The box contained a hat pin, some BLACK DOG items, a brooch, two signed photographs of The President, and a signed State of the Union address. However, there was no discussion of the contents. LEWINSKY had written "do not throw away" on the box. CURRIE was on her way to visit a relative in the hospital when she stopped by. CURRIE was to keep the box in a closet in CURRIE's home.

In addition to the December 19, 1997 meeting with VERNON JORDAN, LEWINSKY had met JORDAN on several previous occasions. LEWINSKY may have met with JORDAN in late November or the first week in December 1997. LEWINSKY initially met JORDAN in early November 1997, when she spent about 20 minutes in his office. The purpose of this meeting was to ask JORDAN's assistance in obtaining a job in New York. LEWINSKY knew that JORDAN and the President were good friends and JORDAN knew that LEWINSKY and the President were friends. JORDAN indicated that he had spoken with the President and LEWINSKY interpreted this to mean that the President had asked JORDAN for assistance in getting LEWINSKY a job. JORDAN said, "You've come highly recommended." LEWINSKY understood that this meant that the President had spoken to JORDAN. LEWINSKY was somewhat intimidated during this meeting. JORDAN said that he would make some telephone calls on LEWINSKY's behalf before he left Washington for the holidays.

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ISIKOFF with BETTY CURRIE.

On January 7, 1998, LEWINSKY signed the JONES affidavit which CARTER had prepared. LEWINSKY took the following gifts to CARTER's office: "The Hope and History" book, all Christmas cards, two signed photos, including the LEWINSKY family photo, and signed letters. There was no agreement with the President, JORDAN, or anyone else that LEWINSKY had to sign the JONES affidavit before getting a job in New York. LEWINSKY never demanded a job from JORDAN in return for a favorable affidavit. Neither the President nor JORDAN ever told LEWINSKY that she had to lie. However, LEWINSKY repeated that there had always been an understanding with the President that they would both deny a sexual relationship.

In January 1998, LEWINSKY met with JORDAN, shortly after she signed the JONES affidavit on January 7, 1998. LEWINSKY gave JORDAN a tie and pocket square, and thanked him for his assistance in getting her a job in New York. JORDAN had helped LEWINSKY get the interviews in New York with MCANDREWS AND FORBES, BURSTON MARSTELLER, and REVLOX. JORDAN began helping LEWINSKY after she requested his assistance in a meeting at JORDAN's office in early November 1997. JORDAN helped LEWINSKY because LEWINSKY was a friend of the President. JORDAN was the only one in recent times who had delivered what he promised.

When LEWINSKY was subpoenaed on December 19, 1997, she telephonically discussed it in a cryptic manner with LINDA TRIPP, who had already been subpoenaed. LEWINSKY was concerned that TRIPP would testify about LEWINSKY's sexual relationship with the President, inasmuch as LEWINSKY had advised TRIPP of many details in confidence on different occasions. During previous discussions, TRIPP advised LEWINSKY that she would reveal what LEWINSKY had told her if TRIPP had to testify. LEWINSKY and TRIPP had talked about TRIPP's testimony several times.

At some point LEWINSKY typed on her home computer the talking points about how TRIPP should testify. The contents and ideas for the talking points were a summary of things that LEWINSKY and TRIPP had discussed off and on since March 1997. There was no lawyer involved in preparing the talking points, nor did LEWINSKY receive any instructions from the President, JORDAN, CARTER, or anyone from the White House. LEWINSKY gave the talking points to TRIPP at the Pentagon. TRIPP read the points and made positive statements about them by saying, "That's true," and "This is good." TRIPP had indicated that TRIPP wanted to file an affidavit to avoid testifying in the JONES matter.

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LEWINSKY did not always tell TRIPP the truth, i.e. LEWINSKY promised that she would not sign the JONES affidavit until she had the New York job lined up. However, when this promise was made to TRIPP the affidavit had already been signed.

LEWINSKY was not aware that TRIPP was taping her telephone calls, but did suspect that TRIPP may have been recording her during their conversation at the RITZ CARLTON HOTEL on January 13, 1998.

LEWINSKY gave a copy of the affidavit to JORDAN. JORDAN made changes to the first draft of the affidavit, but did not retain a copy. These were minor changes proposed by LEWINSKY and agreed to by JORDAN. CARTER prepared three or four drafts of the affidavit until LEWINSKY and CARTER agreed upon one. Minor changes were made. JORDAN never told LEWINSKY to file the affidavit but did discuss her concerns when LEWINSKY called him.

LEWINSKY prepared a written proffer in her own handwriting at the end of January, 1998. Attached is a copy of the proffer marked "Attachment B". The writing took from six to ten hours and was completed in one sitting. LEWINSKY asked her attorneys, BILL GINSBERG and NATE SPEIGHTS, a few questions. The attorneys were in the hallway outside of the conference room at the COSMOS CLUB when she drafted the proffer. LEWINSKY was not on medication. The proffer is generally accurate and LEWINSKY would disavow nothing in it. NATE SPEIGHTS has a copy of the first draft, which is not significantly different from the second draft. LEWINSKY made the following comments concerning specific statements in the proffer:

- A. At the end of paragraph two on page two of the proffer LEWINSKY's recollection is that the words "leave Washington, DC" should read "get out of town."
- B. In paragraph marked four on page four the following statement appears "In general, Ms. L should say she visited the WH to see Ms. CURRIE and, on occasion when working at the WH, she brought him letters when no one else was around." LEWINSKY commented that these statements were not untrue, but were misleading in that some facts were omitted from this statement. This was the cover story that the President had suggested that she use.

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- C. At the bottom of page five the wording of the two lines scratched out is "on more than one occasion Ms. L was concerned about signing an affidavit." LEWINSKY's memory is unclear on this point, but LEWINSKY may or may not have said this to JORDAN.
- D. In regard to the bottom paragraph on page five, LEWINSKY said that she cannot now remember whether she told JORDAN about her sexual relationship with the President.
- E. In regard to the first sentence on page six, "Ms. L made it clear she intended to deny the sexual relationship with the Pres.", LEWINSKY now is not sure of that statement.
- F. In paragraph two of page eight the proffer states "Ms. L replied that she and the Pres. had already had an affair minus having sex, --but it included everything else." LEWINSKY said that this statement meant that she never had intercourse with The President.
- G. In regard to paragraph ten on page ten, LEWINSKY discussed signing the affidavit denying a sexual relationship with the President. LEWINSKY said that she had never even thought about giving an affidavit wherein she would admit to having sex with the President. Based on the pattern of LEWINSKY's relationship with the President it was assumed that LEWINSKY would not admit any sexual activity. Neither the President nor anyone ever directed LEWINSKY to say anything or to lie, but neither did the President nor anyone else ever tell LEWINSKY not to lie. No one ever used the term "deny, deny" to her.

LEWINSKY now has some guilt about getting JORDAN into trouble. LEWINSKY likes JORDAN. LEWINSKY said that her memory when she wrote the proffer in January would have been better than it is today.

LEWINSKY gave the following gifts to the President:

1. A poem written by LEWINSKY on behalf of the White House interns and presented to the President by KATIN ABRAMSON.

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JOBS

Between September 12 and 26, 1997, CURRIE advised she was going to talk to JOHN PODESTA. On October 7, 1997, LEWINSKY talked to LINDA TRIPP, who had stayed home from work. TRIPP told LEWINSKY that TRIPP's friend, KATE, who worked at the NATIONAL SECURITY COUNCIL, said she had heard that LEWINSKY would not get back at the White House, and if she did, LEWINSKY would not get a job requiring a blue, West Wing pass. TRIPP said that KATE's advice was for LEWINSKY to "get out of town."

This conversation with TRIPP made LEWINSKY so angry she left work early that day. LEWINSKY advised she then decided to move to New York. LEWINSKY advised she had previously considered the idea of moving to New York, but the call from TRIPP was the "straw that broke the camel's back." KATE's comments confirmed LEWINSKY's hunch that she was never going to be brought back to the White House.

LEWINSKY advised that moving to New York was a possibility beginning in July of 1997. LEWINSKY advised a job at the United Nations seemed logical at the time because it was a government agency.

LEWINSKY had been suspicious of not getting a job back at the White House. LEWINSKY advised that, in an October 11, 1997 telephone conversation with CLINTON, she mentioned to him her frustration of not getting a job at the White House. CLINTON said the problem was that lower-level people knew more about the specific job openings than he did.

LEWINSKY advised that on October 9 or 10, 1997, CLINTON called her between 2:00 and 2:30 in the morning. LEWINSKY advised she was asleep when CLINTON called. The call lasted for approximately one and one half hours. LEWINSKY and CLINTON had their biggest fight ever in this telephone conversation. LEWINSKY said both she and CLINTON yelled a lot during the call.

CLINTON said that if he had known how difficult it would be to bring LEWINSKY back to the White House, he would have never let her be transferred in the first place. CLINTON said he was obsessed with her career and wanted to help her. CLINTON said his life was empty except for work. During the fight, CLINTON also said that, if he had known what type of person LEWINSKY was, he would have never become involved with her in the first place. LEWINSKY advised she was very hurt by this comment and started crying.

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LEWINSKY advised that CLINTON was in the White House Residence when he made the telephone call to her. LEWINSKY advised that her caller identification feature indicated "unavailable" when CLINTON called her from the Residence. LEWINSKY advised she did not go into detail about what TRIPP said KATE had said. LEWINSKY advised she was vague with CLINTON when discussing why she wanted to move to New York.

LEWINSKY told CLINTON she had to be out of her apartment by the end of October. LEWINSKY advised that the discussion of her job situation was part of her relationship with CLINTON. CLINTON said he would get working on a job in New York for LEWINSKY.

LEWINSKY advised she stayed home from work on October 10, 1997 and had lunch with TRIPP at the CALIFORNIA PIZZA KITCHEN on Connecticut Avenue. LEWINSKY talked about her early morning telephone conversation with CLINTON. LEWINSKY advised she was emotionally exhausted as a result of the content of the phone conversation with CLINTON the night before. LEWINSKY was also disappointed she would not be going back to work at the White House.

The following morning, October 11, 1997, at approximately 8:30 a.m., CURRIE called LEWINSKY from the hospital and said CLINTON wanted to see LEWINSKY at approximately 9:00 a.m., at the White House. CURRIE told LEWINSKY that CLINTON had paged CURRIE to tell her to get in touch with LEWINSKY.

LEWINSKY advised it was CLINTON's wedding anniversary that day, and CLINTON had tasked CURRIE with finding a HALCYON box for HILLARY CLINTON. The White House Garden tours were taking place that day and CURRIE had two friends there on the tour. LEWINSKY chatted with CURRIE's friends as she waited for CLINTON. CLINTON was on the telephone with CAPRICIA MARSHALL, who had attended the wedding of LAURA HARTIGAN in Chicago.

LEWINSKY advised that she saw ANNE MCCOY coming toward the Oval Office, so LEWINSKY darted to the back room of the Oval complex to avoid MCCOY.

LEWINSKY met alone with CLINTON in the Dining Room. LEWINSKY gave CLINTON a list of jobs in New York she was interested in. LEWINSKY advised she mentioned First Name Unknown (FNU) KAPLAN from CNN. LEWINSKY may have also mentioned VERNON JORDAN during this conversation. LEWINSKY thinks she may have mentioned JORDAN in the previous telephone conversation in which

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she and CLINTON had a fight. CLINTON was receptive to the idea of JORDAN helping LEWINSKY.

LEWINSKY mentioned JORDAN because TRIPP had said JORDAN was CLINTON's best friend and JORDAN was on the board of directors of many companies. LEWINSKY looked JORDAN up on the Internet and also saw a lot of references to him in stories about CLINTON's trip to Martha's Vineyard.

LEWINSKY advised she did not want a job in the government.

LEWINSKY advised that, at some point, she knew JOHN PODESTA had a role in LEWINSKY getting a job offer at the United Nations. CLINTON said that he did or would talk to PODESTA.

In mid-October, CLINTON was in Latin America and LEWINSKY worked on her letter to CLINTON regarding jobs. LEWINSKY bought a book at BARNES & NOBLE regarding jobs in New York.

LEWINSKY advised she sent her letter, her GS rating, the section of the PLUM Book regarding other Confidential Assistants at the Pentagon being GS-11's, (while LEWINSKY was a GS-9) to CLINTON on October 16, 1997. LEWINSKY believes she mentioned a salary of approximately \$60,000.

On October 21, 1997, Ambassador WILLIAM RICHARDSON telephoned LEWINSKY at home. RICHARDSON said he understood from JOHN PODESTA that LEWINSKY was interested in working at the United Nations.

On October 23, 1997, LEWINSKY spoke with CLINTON on the telephone. During the conversation, LEWINSKY and CLINTON spoke about the sunglasses LEWINSKY recently sent CLINTON. (LEWINSKY also sent CLINTON a CALVIN KLEIN tie, the fifth tie she had given him.) During this conversation, LEWINSKY mentioned RICHARDSON's call to her. LEWINSKY tried to steer CLINTON to think of a job other than the United Nations, but CLINTON said he just wanted LEWINSKY to have options.

[LEWINSKY does not recall when she regularly started using the courier service to deliver things to CLINTON. Mid-March of 1997 was the first time LEWINSKY used the service, but she may have not used it regularly until the fall of 1997. TRIPP had said the FEDERAL EXPRESS system was unsafe. LEWINSKY advised that on March 1, 1997, she sent CLINTON a get-well package, which

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included a magnet of the Seal of the President of the United States for CLINTON's metal crutches; a little license plate that said "BILL" for CLINTON's wheel-chair; and knee-pads with the seal of the President of the United States stitched on them (by LEWINSKY). LEWINSKY purchased the knee-pads at a sporting goods store on the third floor of the Pentagon City mall.]

[LEWINSKY advised her mode of delivering items to the White House depended on the sensitivity of the items. LEWINSKY advised the most secure mode was to give the item directly to CURRIE. LEWINSKY advised the cost of the delivery also played a role in her choosing a specific method. LEWINSKY advised the courier service was the most expensive of the delivery methods. LEWINSKY advised she dropped things off at the New Executive Office Building (NEOB) approximately 3 times and handed the items directly to CURRIE at one of the White House gates approximately five times. LEWINSKY advised she thought of using the Department of Defense courier to the White House, but could not do it.]

LEWINSKY did not feel it was odd for CLINTON to be helping her find a job because she "had a relationship with him."

Sometime before October 30, 1997, LEWINSKY asked CURRIE to tell CLINTON to call LEWINSKY. In the early evening, around 8 p.m., on October 30th, CLINTON called LEWINSKY at home. LEWINSKY said she was anxious about meeting RICHARDSON. CLINTON told LEWINSKY to call CURRIE after the interview to let CLINTON know how the interview went.

LEWINSKY had given CURRIE CLINTON's Halloween presents, including a lapel pin, sometime during the week before Halloween. LEWINSKY advised she saw a photograph of CLINTON wearing the pin and she read that CLINTON mentioned the pin in a speech.

On October 31, 1997, LEWINSKY met with RICHARDSON at the Watergate Hotel. MONA SUTPHEN, RICHARDSON's assistant, met LEWINSKY in the lobby and escorted LEWINSKY to RICHARDSON's room. LEWINSKY advised the setting was very casual as RICHARDSON was eating breakfast when LEWINSKY arrived. RICHARDSON asked LEWINSKY if CURRIE was her mother.

LEWINSKY mentioned working on the United States Consulate to the United Nations' web-site and suggested implementing town hall meetings, similar to the ones the Department of Defense used. LEWINSKY advised the meeting lasted approximately one-half hour.

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LEWINSKY did not think the interview was perfunctory or "cake." LEWINSKY advised that REBECCA LNU and SUTPHEN were there, and at times it may have just been RICHARDSON and REBECCA Last Name Unknown (LNU) with LEWINSKY, as SUTPHEN came in and left intermittently.

LEWINSKY does not recall PODESTA's name coming up during the interview.

After LEWINSKY's interview, LEWINSKY's mother and aunt went to the United Nations in New York. LEWINSKY advised some of the reasons LEWINSKY did not want to work at the United Nations were because LEWINSKY's mother mentioned her concern that a lot of Arabs worked at the United Nations and because the United Nations was somewhat isolated from the business district in New York.

The interview with RICHARDSON ended with LEWINSKY being told that RICHARDSON or his staff would be in touch with her. LEWINSKY spoke to CURRIE after the interview and LEWINSKY was a lot more optimistic about her job opportunities than she was before the interview. CLINTON was out of town at the time.

On November 3, 1997, or later, LEWINSKY received a telephone call from RICHARDSON and was offered a job at the United Nations.

VERNON JORDAN

On either October 23 or 30, 1997, LEWINSKY and CLINTON discussed VERNON JORDAN helping LEWINSKY in her job search.

On November 3 or 4, 1997, CURRIE called LEWINSKY and told her to call JORDAN's secretary GAYLE LNU. CURRIE told LEWINSKY to say she was CURRIE's friend. LEWINSKY advised that CURRIE had called JORDAN to arrange the meeting, so that gave LEWINSKY some indication that CLINTON was involved.

In the late morning of November 5, 1997, LEWINSKY had an appointment to see JORDAN. LEWINSKY was nervous as she waited in the lobby for twenty minutes before meeting with JORDAN. LEWINSKY brought the same package she had sent CLINTON earlier, sans the cover sheet and the GS scale.

LEWINSKY sat in JORDAN's office before he came in. JORDAN made LEWINSKY feel nervous. JORDAN was not very effusive in this meeting. The meeting lasted approximately twenty minutes. After introducing each other, JORDAN asked LEWINSKY why

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she was there. LEWINSKY told JORDAN she was hoping to move to New York. JORDAN asked her why she wanted to leave Washington, D.C. LEWINSKY said that she wanted to get a fresh start.

LEWINSKY mentioned her employment at the White House. JORDAN inquired as to why he never saw LEWINSKY during one of his visits to the White House. LEWINSKY gave JORDAN the "vanilla" story about why she left employment at the White House. LEWINSKY said that LIEBERMAN did not like her. JORDAN said LIEBERMAN disliked him as well. JORDAN said he had spoken to CLINTON about LEWINSKY.

LEWINSKY and JORDAN went over her list of possible employers. LEWINSKY felt awkward in the meeting as JORDAN did not respond to her often. JORDAN mentioned one his daughters worked at one of the companies on LEWINSKY's list. At the end of the meeting, JORDAN said he and LEWINSKY were "in business."

JORDAN said that LEWINSKY came "highly recommended." LEWINSKY is not sure if JORDAN meant that CLINTON said nice things about her, or if he meant CLINTON had mentioned his relationship with LEWINSKY. In their November 12, 1997 telephone conversation, CLINTON said he had spoken to JORDAN.

JORDAN was going out of town the day after LEWINSKY met with him. LEWINSKY called CURRIE and left a couple of messages with JORDAN's secretary, but JORDAN did not return LEWINSKY's call. LEWINSKY called CURRIE to see what she should do, since she had not heard from JORDAN in almost two weeks.

On November 26, 1997, CURRIE paged LEWINSKY while LEWINSKY was in Los Angeles. LEWINSKY called CURRIE from a pay phone at the WILSHIRE COURTYARD MARRIOTT. LEWINSKY was told to call JORDAN and she did. JORDAN told LEWINSKY he was leaving for China and he told LEWINSKY to call him around the first week of December. JORDAN told LEWINSKY he was working on her job search.

LEWINSKY was anxious as she had given notice at the Pentagon that she was going to leave, though she did not give a specific date.

On December 8, 1997, LEWINSKY sent, by courier, a package to JORDAN, which included a note, a hat and some chocolate, to remind him she still existed.

During LEWINSKY's December 6, 1997 meeting with CLINTON, she thinks he said he would contact JORDAN. LEWINSKY

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advised CLINTON was the type of person who would say he was going to do something and not really mean it.

LEWINSKY advised that she had breakfast with VERNON JORDAN on December 31, 1997 at the HYATT. LEWINSKY advised JORDAN paid for the breakfast; LEWINSKY had an egg-white omelette, and JORDAN had cereal or yogurt.

CLINTON's Testimony

LEWINSKY is surprised CLINTON has agreed to testify before the Grand Jury. LEWINSKY thinks CLINTON is walking into a "perjury trap." LEWINSKY advised that, with the existence of the dress being leaked, CLINTON may do a "mea culpa." LEWINSKY advised she guessed what CLINTON would say about her when he testified in the JONES case, and she was correct. LEWINSKY advised, though they did not discuss the issue in specific relation to the JONES matter, she and CLINTON had discussed what to say when asked about LEWINSKY's visits to the White House.

LEWINSKY advised she still has feelings towards CLINTON and she finds it hard to provide the OIC questions that may end up hurting CLINTON.

LEWINSKY would ask CLINTON why he wore the same tie twice in once week. (LEWINSKY advised she gave CLINTON the tie.)

LEWINSKY would ask CLINTON why he would give NELVIS the first tie LEWINSKY gave CLINTON. NELVIS then wore it to one of his grand jury appearances. LEWINSKY would ask CLINTON if he was trying to send LEWINSKY a message.

LEWINSKY does not think CLINTON is concerned about BRUCE LINDSEY testifying, as she is unaware of LINDSEY's knowledge of her relationship with CLINTON.

[REDACTED]

CLINTON advised he made a concerted effort not to have sex with other women. CLINTON seemed to feel guilty about cheating on his wife.

When CLINTON was in Mexico, he became ill. When he returned, he asked LEWINSKY if she could tell he was sick.

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see LEWINSKY that day because "of all of this shit going on" and that he only had one day to see the lawyers about the JONES case. LEWINSKY was surprised that she got into the White House and had thought that she would only be able to talk to the President on the telephone that day. The President said that he had a gift from Vancouver for LEWINSKY. The President then received a call from ERSKINE BOWLES, apparently made an appointment to see BOWLES, and told LEWINSKY to come back another day to get her gift. The President said, "Don't worry, you'll get your gift." The President did not discuss the JONES witness list with LEWINSKY. The President said that he would talk to VERNON JORDAN on LEWINSKY's behalf about jobs. The President also said, "I promise, I won't abandon you." Nothing the President said left LEWINSKY with the impression that their relationship was any different than it was before. The visit lasted about 20 or 25 minutes. CURRIE helped LEWINSKY exit out the back way before BOWLES arrived.

On the evening of December 6, 1997, LEWINSKY went to New York and stayed with her mother. She told her about the Christmas Party on Friday, that LEWINSKY had been very upset on Saturday, and that she had gotten in to see the President on Saturday.

On December 7, 1997, LEWINSKY returned to Washington by airplane. Enroute, LEWINSKY wrote the "whipped cream" card, which she sent in the next day or so. The card said something to the effect of, "Nothing would make me happier than to see you, except to see you naked with a winning lottery ticket in one hand and a can of whipped cream in the other."

On December 8, 1997, LEWINSKY sent a package to VERNON JORDAN containing a white "NATO" ballcap, some chocolate, a note, and possibly a copy of her resume. LEWINSKY did this as a friendly reminder to JORDAN to keep helping her.

Sometime during this week GAIL from JORDAN's office called LEWINSKY to set up a meeting.

LEWINSKY does not recall whether she called BETTY CURRIE to ascertain whether the card for the President had arrived, nor does she recall whether she called LINDA TRIPP that day.

In regard to BAYANI NELVIS, LEWINSKY described him as a nice person, but not everyone at the White House treated him right. NELVIS is very loyal to the President. LEWINSKY first

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met NELVIS during the furlough in November 1995. NELVIS is Filipino, has an accent, and is friendly. NELVIS knew that LEWINSKY had feelings for the President and that she enjoyed a special relationship with the President. When LEWINSKY would have drinks with NELVIS, he would provide personal details about the President. LEWINSKY asked NELVIS about the details of the President's schedule and the President's routine when he was out of town. On one of the Presidential trips, NELVIS called LEWINSKY from Martha's Vineyard and asked her if she wanted to come up there and stay in the house with several other staff members. LEWINSKY had wanted to set up a rendezvous with the President on one of his trips, but declined NELVIS's offer. LEWINSKY met NELVIS once for dinner at the CALIFORNIA PIZZA KITCHEN in Pentagon City. LEWINSKY gave NELVIS one or two ties. NELVIS bought LEWINSKY perfume for her birthday and gave her glasses, golf balls, and cards from Air Force One. NELVIS did not want the President to know that he was friends with LEWINSKY. NELVIS never noticed which ties the President wore from day to day. LEWINSKY did not see NELVIS in Madrid, Spain, but may have seen GLEN MAES. NELVIS told LEWINSKY to be careful around the USSS officers. This conversation may have occurred in the Roosevelt Room on the day that they discussed cigars. NELVIS told LEWINSKY that CATHY CORNELIUS had gone with the advance party on the trip to Russia and that NELVIS took CORNELIUS downtown to shop, since she was afraid to go alone.

In regard to DEBBIE SCHIFF, LEWINSKY observed SCHIFF clomp around the office in the President's shoes on February 28, 1997, at the radio address. This appeared to LEWINSKY to show SCHIFF's familiarity with the President.

On December 11, 1997, LEWINSKY went to the office of VERNON JORDAN for a meeting, which had been arranged by GAIL of his office about December 8th or 9th. LEWINSKY waited in JORDAN's lobby for about 20 minutes. LEWINSKY was very nervous at the meeting and could not decide whether to wear a red headband that she brought to his office. LEWINSKY told JORDAN, "I'm more nervous with you than when I'm with the President." JORDAN tried to be less formal on this visit and to make LEWINSKY feel more at ease. In this visit, which included a turkey sandwich lunch, JORDAN told LEWINSKY the names of people that he had called. JORDAN suggested that LEWINSKY write letters to them with detailed wording that he provided, and asked that he receive copies of the letters. JORDAN explained his assistance by saying, "You're a friend of the President of the United States."

JORDAN asked what the occasions were when LEWINSKY got

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On about December 15, 1997, LEWINSKY attended the swearing in of KATHY HAYCOCK in the Vice-President's ceremonial room. Vice-President GORE did the swearing in. The President did not attend. LEWINSKY tried to call BETTY CURRIE, but does not recall talking to her.

On December 17, 1997, at about 2:30 a.m., LEWINSKY received a telephone call from the President. He was not in a jovial mood and had concern in his voice. After about four seconds the President said he would call right back and hung up. About two minutes later, the President called back and said that he had two important things to tell LEWINSKY. First, BETTY CURRIE's brother had been killed in a car accident. They discussed whether LEWINSKY should call her. Then the President said that he had seen the PAULA JONES witness list and that LEWINSKY was on it. The President said, "It broke my heart when I saw your name on the list." The President said not to worry about it and that it did not necessarily mean LEWINSKY would get a subpoena. The President said that it was possible that LEWINSKY would be subpoenaed in a month or so. The President said that LEWINSKY could always say that she was coming to see BETTY, or that LEWINSKY was bringing papers from Legislative Affairs to the President. The President said that if LEWINSKY did get subpoenaed, call BETTY CURRIE and they would work something out. LEWINSKY assumed that this meant that they would help LEWINSKY figure out what to do. The President said, "Maybe you could sign an affidavit." LEWINSKY's impression was that she would sign an affidavit and get out of a deposition.

LEWINSKY told the President that she had some job interviews scheduled in New York. LEWINSKY also said that maybe she would be gone and the lawyers could not find her. The President said that was a possible solution.

LEWINSKY expressed her opinion to the President on how to settle the PAULA JONES case. LEWINSKY had read an article in the Times that people were sending in money to help the President with his legal problems. LEWINSKY advised the President that since PAULA JONES was only asking for \$500,000, that the President should pay up to save his family and the country. The President expressed surprise that JONES was only asking for \$500,000, as he thought the asking price was \$1 million. The President said that he would ask his lawyers. LEWINSKY later cut out the Times article about the contributions and mailed it to MITCH ETTINGER.

The President said that maybe BETTY CURRIE could come

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expedition. LEWINSKY explained that she did not want to get involved in the JONES case and that she was going to a new job in New York. CARTER suggested that prior to preparing an affidavit for LEWINSKY, he would call the JONES people and maybe have LEWINSKY give them an interview. LEWINSKY urged CARTER to call the BENNETT people, and he agreed to do so. LEWINSKY wanted the President to know that she was a team player. CARTER may have called BENNETT's office in her presence. CARTER said that he would send a retainer agreement in the mail.

LEWINSKY went back to work on December 22, 1997, and may have called VERNON JORDAN from a pay phone. LEWINSKY spoke with LINDA TRIPP at least once in person that afternoon. This conversation consisted of TRIPP telling LEWINSKY not to ask her to lie, and LEWINSKY reminding TRIPP that she had promised not to tell anyone about LEWINSKY's relationship with the President. TRIPP countered with the statement that her promise not to tell was not binding if she was under oath. LEWINSKY replied, "I wasn't thinking about under oath," which meant that she wanted TRIPP to lie no matter what the circumstances. TRIPP kept reminding LEWINSKY that VERNON JORDAN had gotten LEWINSKY a big name lawyer, but suggested that LEWINSKY might want to get an independent lawyer. LEWINSKY thought that perhaps TRIPP was jealous of LEWINSKY. LEWINSKY told TRIPP that she wanted to be in the CLINTON/BENNETT camp. LEWINSKY did not want to acknowledge that TRIPP was "doing her in," and was not always telling TRIPP the truth by this time. LEWINSKY did not think that it was so wrong to lie on the affidavit, because this concerned a personal matter and was none of PAULA JONES's business.

In regard to the E-mail sent and received on LEWINSKY's computer at the Pentagon, at some point during the week after LEWINSKY was subpoenaed, the computer person, FLOYD LNU, said that the E-mail was automatically destroyed every four weeks. FLOYD also told LEWINSKY how to permanently delete E-mail and LEWINSKY then made some deletions of her E-mail, specifically those sent to KATHRYN ALLDAY DAVIS, and a few to TRIPP. Sometime in December 1997, LEWINSKY asked TRIPP to delete the E-mail that TRIPP had received from LEWINSKY. LEWINSKY did this because E-mail would leave a trail. The President was unaware that LEWINSKY had mentioned him in E-mail and never told LEWINSKY to delete any of her messages.

On December 23, 1997, LEWINSKY was interviewed for a job by an AMERICAN EXPRESS official in Washington. The interviewer advised LEWINSKY that LEWINSKY really did not have the experience necessary for the position. DARCY BACON, wife of

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CURRIE asked the guards at the southwest gate to let LEWINSKY out without the pass.

BETTY CURRIE called LEWINSKY at home later in the day, and said, "I understand that you have something for me." LEWINSKY was not surprised that CURRIE called since LEWINSKY had talked to the President about the gifts earlier that day. When CURRIE called, there was no question in LEWINSKY's mind that CURRIE knew what she was calling for. LEWINSKY then took the hat pin, and other selected items that would cause suspicion, and placed them in a box. LEWINSKY kind of compromised in deciding what to give to CURRIE to hold for her; for instance, the books that the President had given her were too sentimental to give back just in case LEWINSKY never got the box back. LEWINSKY put the *Leaves of Grass* book in her closet in a plastic bag. LEWINSKY gave the box to BETTY CURRIE when CURRIE came by the Watergate about 2:00 p.m. LEWINSKY had sealed the box so that CURRIE would not look at the items, and marked "do not throw away" in hopes that neither CURRIE nor the President would destroy the gifts. By giving the box of gifts to CURRIE, LEWINSKY was, in her mind, placing these items in the President's control. LEWINSKY said that the cassette tapes of the President's messages and the blue dress she wore on February 28, 1997 had already been taken to New York earlier in December. LEWINSKY told CURRIE not to throw the box away. CURRIE did not comment. LEWINSKY also gave CURRIE a small plant and a balloon to take to CURRIE's mother, who was in the hospital.

On December 28 or 29, 1997, LEWINSKY's brother MICHAEL was in town and LEWINSKY traveled to New York.

On December 29 or 30, 1997, LEWINSKY took a test at BURSON, MARSTELLER.

On December 30, 1997, LEWINSKY called VERNON JORDAN to discuss the job situation and was invited by either JORDAN or GAIL, his secretary, to have breakfast with JORDAN the next day. LEWINSKY traveled to Washington by train. LEWINSKY intended to surface the fact to JORDAN that LINDA TRIPP may have been the source of information resulting in LEWINSKY's subpoena by the JONES lawyers since, she had not acknowledged that to the President. LEWINSKY expected JORDAN to advise the President of this information.

On December 31, 1997, LEWINSKY arrived at the PARK HYATT MELROSE RESTAURANT on M Street by taxi, about 8:00 a.m. or 8:30 a.m., and the hostess advised LEWINSKY that Mr. JORDAN was

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wanted VERNON JORDAN to review a copy of the affidavit and approve it. LEWINSKY thought that, by having JORDAN approve the affidavit, it was the same as having CLINTON's approval.

On January 5 or 6, 1998 LEWINSKY called CURRIE to tell her LEWINSKY needed to talk to CLINTON. (LEWINSKY advised that on her December 28, 1997 meeting with CLINTON, CLINTON told LEWINSKY to call CURRIE if LEWINSKY had any questions about anything related to the JONES matter.) LEWINSKY was very cryptic with CURRIE when they talked. LEWINSKY said she was going to sign something the next day and she needed to speak with CLINTON before doing so. LEWINSKY advised she wanted to make CLINTON nervous.

LEWINSKY advised CURRIE called at approximately 7 or 8 p.m. LEWINSKY was at the apartment of her aunt, DEBRA FINERMAN, when CURRIE called. LEWINSKY had told CURRIE that is where she would be. CURRIE transferred the call to CLINTON.

LEWINSKY told CLINTON she had spoken to CARTER and went over possible questions that would be asked in her deposition. CLINTON asked LEWINSKY what she was concerned about. LEWINSKY told CLINTON she was worried about giving "vanilla" answers to questions about how LEWINSKY got her job at the Pentagon. LEWINSKY was concerned that people at the White House, who did not like LEWINSKY, would "screw" her.

CLINTON told LEWINSKY to say that people in the Office of Legislative Affairs (OLA) found the position and the people in the OLA recommended her for it. LEWINSKY said that she could answer that way. (LEWINSKY advised that explanation was true, but it was not the entire truth.)

LEWINSKY was reassured by what CLINTON said about her transfer to the Pentagon. LEWINSKY and CLINTON spoke about the affidavit. LEWINSKY advised she did not want to sign anything until she was reassured by the White House that she would not be "screwed." LEWINSKY asked CLINTON if he wanted to see the affidavit and CLINTON said no, he had seen about fifteen of them.

CLINTON advised he liked the book she had given him. LEWINSKY told CLINTON it cost \$40 and CLINTON asked why she paid so much for it. LEWINSKY brought up the subject of the note she gave him with the book. CLINTON said that LEWINSKY should not write things like that on paper. LEWINSKY advised CLINTON was referring to romantic items LEWINSKY had placed in the note. LEWINSKY assumed CLINTON threw away the notes she gave him.

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Resources manager at REVLON.

LEWINSKY advised she called JORDAN after the interview to let him know it went well. LEWINSKY advised she received a telephone call from SEIDMAN, in which LEWINSKY was offered a position at REVLON as a floater in the public relations department. LEWINSKY was advised her salary would be approximately \$40,000.

LEWINSKY recalled being annoyed at the salary and she complained to JORDAN about it. JORDAN told LEWINSKY to quit whining.

LEWINSKY does not recall calling CARTER on January 9, 1998. LEWINSKY did call CURRIE from a pay phone at the PIERRE HOTEL, to tell her about the job offer. LEWINSKY thinks CLINTON may have been out of town. LEWINSKY may have asked CURRIE to tell CLINTON about the job offer.

LEWINSKY advised that, in all the times she tried to reach JORDAN, she only got through to him half the time.

LEWINSKY does not recall what she did on January 10, 1998, except for the afternoon, which she spent looking for a tie to give JORDAN. LEWINSKY recalls that on January 11, 1998, STEVE NEUWIRTH called and said he did not want to see LEWINSKY that night or ever again.

LEWINSKY advised that on January 12, 1998, LEWINSKY sat by the phone awaiting a call. CARTER paged LEWINSKY and when she returned the page, CARTER advised her that he had submitted her affidavit to PYKE.

LEWINSKY called CURRIE on January 12, trying to get a recommendation from the OLA. LEWINSKY was also trying to find out if CURRIE had told CLINTON about LEWINSKY's offer.

LEWINSKY traveled on a 6:00 a.m. train from New York to Washington, D.C. LEWINSKY met JORDAN at 9:30 a.m. in JORDAN's new 4th floor office. LEWINSKY met with JORDAN for five minutes and gave him a tie and a pocket square as a sign of her appreciation.

JORDAN was not as warm with LEWINSKY as he had previously been. JORDAN quoted the Bible in referring to helping others. LEWINSKY perceived this to be the end of her working relationship with JORDAN.

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This would make BLEILER available to continue their affair. In her apology to BLISS, LEWINSKY made up a story about using the letter to show that BLEILER had a job in Oregon, and that KATE could then obtain permission from the court to move the daughter of HARVEY LEHRER and KATE BLEILER from the state of California. This was merely a cover story for an illicit relationship.

While at LEWIS AND CLARK COLLEGE, LEWINSKY gave her father a false transcript to indicate better grades than she actually received.

LEWINSKY has never been arrested, but has received a few speeding tickets in Oregon. LEWINSKY has received many parking tickets, some of which she did not pay immediately. LEWINSKY has failed to return some rented videos and some library books.

LEWINSKY reported her credit problems when she filled out the questionnaire for her clearance at the White House. LEWINSKY had to pay off about \$800 in bad debts before she could get her clearance. Unpaid Oregon telephone bills were paid off by MARCIA LEWIS.

On one occasion while at the Pentagon, LEWINSKY made a copy of an unfavorable memo from CLIFF BERNATH to KEN BACON discussing a pay grade increase for LEWINSKY. LEWINSKY took the memo from BACON's desk and copied it so that she could later read it and know how to make a better case for a grade increase. BERNATH had cautioned LEWINSKY about spending too much time on the telephone and about making personal long distance calls. On a trip to Asia, LEWINSKY had a disagreement with a military officer named JEFF GRADIK.

On November 15, 1997, LEWINSKY wore bikini thong panties to work and pulled up her jacket in back to display the tops to the President when he came to PANETTA's office. No one else in the room could have seen this; this was something that LEWINSKY learned to do when she was having an affair with ANDY BLEILER.

During the telephone conversation with the President on December 17, 1997, LEWINSKY and the President discussed the fact that she was moving to New York and maybe the PAULA JONES' lawyers would be unable to find her with a subpoena. LEWINSKY figured that if she was residing with her mom in New York there would be no way to find her, since nothing would be in her name. This was more in the manner of "shooting the breeze" with the

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President than in making a plan.

In the meeting with the President on December 28, 1997, the move to New York was again discussed. LEWINSKY is now unsure who remarked that if she was in New York maybe they would not bother to bring her back for a deposition. LEWINSKY was reminded that her written proffer, previously submitted by NATE SPEIGHTS, has a statement indicating that the President was in favor of the New York move. LEWINSKY said that she has no specific memory of making that statement in the proffer. LEWINSKY said that discussion was not a strategy session, and that if she thought that she needed to get out of Washington quickly, she would have called VERNON JORDAN to make sure that something jobwise should happen immediately.

In regard to the box of gifts that LEWINSKY gave to BETTY CURRIE for safekeeping, LEWINSKY hoped to get the gifts back, but was not sure enough that they would be returned to put all of the gift items in the box. LEWINSKY had no specific thought, discussion, or plan to get the box back; however, LEWINSKY expected the box to be with CURRIE until the PAULA JONES case blew over.

In regard to the daily pages of the Filofax, LEWINSKY does not recall making any entries or notations about the President. LEWINSKY may have thrown the pages away, or they may have been taken in the consensual search of her apartment. The records are not embarrassing, nor are they well kept. However, LEWINSKY would consider it an invasion of privacy if she had to turn over the daily pages at this point.

In January and February 1996, LEWINSKY does not recall telling MAUREEN LEWIS, who worked for NANCY HERNREICH, any story about bringing pizza to the President when topless, or that she wanted to perform oral sex on the President. LEWINSKY did work late with LEWIS around the time that LEWINSKY began drafting the political letters. LEWINSKY would never tell LEWIS this, because LEWIS was too close to HERNREICH. LEWINSKY opined that HERNREICH may have told this to LEWIS based on rumors. LEWINSKY did talk to LEWIS about movies and other non personal things. LEWINSKY and LEWIS did not have a falling out. LEWIS attended LEWINSKY's birthday party at THE PALM RESTAURANT on July 23, 1996. LEWIS called LEWINSKY after the February 28, 1997 radio address and said that she had heard that LEWINSKY was moving out of the country. LEWINSKY probably told LEWIS of her affair with someone at the Pentagon during a telephone call after LEWINSKY left the White House. LEWINSKY never told LEWIS that she was attracted to

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 08/14/98

MONICA S. LEWINSKY was interviewed under the terms of an immunity agreement between the Office of the Independent Counsel (OIC) and her. LEWINSKY was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, Washington, DC 20004. Present for the interview were Associate Independent Counsel (AIC) MICHAEL EMMICK, AIC KARIN IMMERGUT, and AIC CRAIG LERNER. Present representing LEWINSKY was her attorney, PRESTON BURTON. LEWINSKY provided the following information, beginning at approximately 11:13 a.m.

LEWINSKY advised that the first time she mentioned the United Nations to President WILLIAM JEFFERSON CLINTON as a possible employer was during her July 3, 1997 letter to CLINTON. LEWINSKY advised that KATHY HERTZ, a former Pentagon employee, had transferred to the United Nations and liked her job. LEWINSKY thought if the United Nations was a good place for HERTZ to work, it might be a good place for LEWINSKY. LEWINSKY advised that a job at the United Nations was her idea, not CLINTON's.

After raising the idea of the United Nations job on July 3, 1997, LEWINSKY did not pursue the United Nations job any further during the Summer of 1997. LEWINSKY advised she left the July 4, 1997 meeting with CLINTON with the understanding that CLINTON was going to bring her back to the White House.

LEWINSKY advised that she spoke with CLINTON on September 30, 1997. The subject of jobs could have come up during that conversation. CLINTON may have mentioned ERSKINE BOWLES being involved in finding LEWINSKY employment during this conversation.

LEWINSKY was shown a transcript of LRT-018. LEWINSKY is not sure this conversation took place on October 3, 1997, but it could have.

When LEWINSKY spoke with LINDA TRIPP on October 6, 1997, TRIPP mentioned that TRIPP's friend KATE, who worked at the National Security Council (NSC), had heard rumors that LEWINSKY would never get a job at the White House which required a blue pass. LEWINSKY was furious when she heard this and left work. At that time, LEWINSKY again thought about pursuing the United

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Nations as a potential employer. But, LEWINSKY was mostly resolved to look for a job in the private sector in New York.

LEWINSKY could have talked to TRIPP about the United Nations between July 3, 1997 and October 6, 1997, but LEWINSKY's recollection is that LEWINSKY only brought the United Nations back up after October 6, 1997.

As of October 6, 1997, LEWINSKY had only spoken to CLINTON about White House jobs. In one of her conversations with CURRIE in September, LEWINSKY mentioned a former intern who got a job working for PAUL BEGALA. CURRIE said CLINTON told her CURRIE could speak to JOHN PODESTA about finding LEWINSKY a job. From that day, until October 6, 1997, LEWINSKY did not hear from anyone at the White House about a job.

LEWINSKY referred to KATE's comments in a note to CLINTON, but she did not specifically mention KATE by name.

LEWINSKY and CURRIE got into a fight about CURRIE not speaking to CLINTON about a position for LEWINSKY in the White House. Shortly thereafter, on October 9, 1997, LEWINSKY and CLINTON spoke by telephone.

LEWINSKY assumes CLINTON called her from the White House Residence.

On October 10, 1997, LEWINSKY spoke with BETTY CURRIE, who said CLINTON was on the White House putting green with ERSKINE BOWLES. At that time, LEWINSKY thought CLINTON may be talking to BOWLES about a job for LEWINSKY.

LEWINSKY thinks CURRIE would do whatever CLINTON wanted her to do. LEWINSKY thinks that CLINTON could think that, by CURRIE speaking to PODESTA, it would be the same as CLINTON speaking to BOWLES.

LEWINSKY is not sure when VERNON JORDAN's name first came up in relation to LEWINSKY's job search. LEWINSKY recalls speaking to LINDA TRIPP and TRIPP said that JORDAN was on the Board of Directors of many companies. LEWINSKY advised she never spoke with CLINTON regarding MAX CHAPMAN or SUSAN THOMASES. LEWINSKY advised THOMASES was a "HILLARY (CLINTON) person," and it would not make sense for LEWINSKY to want THOMASES to find her a job.

During LEWINSKY's October 11, 1997 visit with CLINTON,

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ever referred to LEWINSKY as a girlfriend.

LEWINSKY never had an open discussion with the President about whether oral sex is "sex." However, after having a relationship with him, LEWINSKY deduced that the President, in his mind, apparently does not consider oral sex to be sex. Sex to him must mean intercourse. LEWINSKY said that her use of the term "having sex" means having intercourse, although oral sex would constitute an "affair." LEWINSKY believed that the President's refusal to allow her to bring him to "completion" was his way of "drawing a line."

At some point, LEWINSKY asked the President if he wanted to see her affidavit. The President put her off by saying that he had seen a lot of affidavits.

On December 17, 1997, the President said that other women on the PAULA JONES witness list were girlfriends from Arkansas from years ago. The President never discussed DOLLY KYLE BROWNING or others on the list with LEWINSKY. LEWINSKY later heard that [REDACTED] may have been a former girlfriend in Arkansas. [REDACTED] always had an icy stare for LEWINSKY. Neither [REDACTED] nor [REDACTED] concealed their daggers well. LEWINSKY made an off-handed comment to the President about GENNIFER FLOWERS and he laughed.

The book given to the President on December 6, 1997 was the THEODORE ROOSEVELT antique book. The antique book purchased after December 28, 1997 was entitled, "Presidents of the United States." This book was purchased at the shop next to the Christian Scientist store in Georgetown and was given to BETTY CURRIE to give to the President on January 4, 1998.

The President never told LEWINSKY to turn over to FRANK CARTER all of the gifts that he had given her.

LEWINSKY never discussed VERNON JORDAN with the President until she began looking for a job in New York in October 1997. LEWINSKY figured that asking JORDAN for help was one more "iron in the fire" in trying to get a New York job.

LEWINSKY discussed the settling of the PAULA JONES case with LINDA TRIPP on December 8, 1997, and with the President on December 17, 1998. During the conversation on December 17th, LEWINSKY is 99% sure that the President told her that if she had to testify she should say that LEWINSKY was at the Oval Office to visit BETTY CURRIE or to bring papers to the President. LEWINSKY

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Because STEPHANOPOULOS had mentioned where LEWINSKY worked, LEWINSKY thought maybe STEPHANOPOULOS knew about her relationship with CLINTON. LEWINSKY therefore approached STEPHANOPOULOS and she may have mentioned something about CLINTON. LEWINSKY does not recall mentioning the term "leading on," but she may have said that she read how the President follows through on things. LEWINSKY was trying to see if STEPHANOPOULOS knew about the relationship. In addition, she was very anxious about the fact that CLINTON had not called her regularly. LEWINSKY did not tell STEPHANOPOULOS about her relationship with CLINTON.

LEWINSKY advised that, of all the people who worked at the White House, STEPHANOPOULOS knowing about her relationship with CLINTON would have concerned her the least, because of STEPHANOPOULOS's age and because of his relationship with CLINTON. LEWINSKY advised she always associated STEPHANOPOULOS with the relationship with CLINTON because it began in STEPHANOPOULOS's office.

LEWINSKY advised that when preparing her written proffer, she wrote one draft, which is in the possession of either NATE SPEIGHTS or her current attorneys. LEWINSKY advised the original draft was not much different than the final version, but it was messier and a lot less organized. LEWINSKY wrote the draft while sitting in a conference room at the COSMOS CLUB. LEWINSKY believes she started working on the draft at approximately 11:00 a.m. and finished at approximately 3:30 p.m.

LEWINSKY advised she took breaks while preparing the proffer. LEWINSKY advised she put into words what happened in her relationship with CLINTON, after her attorneys had received a four point memorandum from the OIC. LEWINSKY recalls being concerned about simply adopting the information in the OIC's memorandum, because she wanted to be as accurate as possible. LEWINSKY, therefore, spent time writing the proffer and tried to be very careful in doing so. LEWINSKY advised she wanted to give a general idea of what she would eventually testify to, but she did not go into all the details.

LEWINSKY advised that at that point, she was not clear about why the OIC was investigating this matter. LEWINSKY advised she felt the OIC was just "out to get" CLINTON and VERNON JORDAN, so LEWINSKY was very careful to make sure she was clear when she wrote things in her proffer.

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LEWINSKY did not expect the proffer to become an official document. LEWINSKY advised that on page 8 of the proffer, she tried to document the gist of what she told JORDAN. LEWINSKY advised that anything in quotes attributed to JORDAN is exactly what JORDAN said.

Paragraph 6 on page 6 of the proffer is LEWINSKY's best recollection of what happened. LEWINSKY advised that the proffer is an accurate document in which she was trying to tell the truth without implicating anyone unjustly. LEWINSKY recalls discussing the hatpin with CLINTON. LEWINSKY recalls bringing the subject up and CLINTON asking if LEWINSKY had told anyone about the hatpin. LEWINSKY told CLINTON she had not, even though she had. LEWINSKY told CLINTON that maybe someone saw her looking at it as she left the Oval Office after he gave it to her. CLINTON said that he was also concerned about the hatpin.

LEWINSKY assumes CLINTON told CURRIE to call LEWINSKY about picking up the gifts because she has no idea how CURRIE would know to do it.

LEWINSKY advised that she worked weekends as an intern only during the government shutdown. LEWINSKY advised she worked a lot of weekends while she worked at the Office of Legislative Affairs (OLA), including most every weekend CLINTON was in town. LEWINSKY also worked weekends when she did not intend on seeing CLINTON, to do work in the OLA.

LEWINSKY advised that she had an "SCI" (Specialized Compartmented Information) clearance, while working at the Pentagon. LEWINSKY had to attend a briefing and re-sign her White House clearance form to get this clearance.

During her December 17, 1997 telephone conversation with CLINTON, CLINTON told LEWINSKY she might not necessarily receive a subpoena. CLINTON told LEWINSKY she was on the witness list in the JONES case and LEWINSKY understood what that meant. LEWINSKY asked CLINTON if any of the other women on the witness list worked at the White House and CLINTON said no, the women on the witness list were all from Arkansas. CLINTON may have said MARSHA SCOTT was on the list.

CLINTON did not go into any detail explaining the nature of a subpoena and seemed to assume LEWINSKY knew what a subpoena was. LEWINSKY is not sure if she knew what one was, but she knows she had never seen one before. LEWINSKY does not recall talking about gifts during this telephone conversation.

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LEWINSKY and CLINTON did not discuss gifts called for by the subpoena until December 28, 1997.

LEWINSKY is not sure if CLINTON was in the White House Residence or in the Oval Office during this conversation. LEWINSKY advised that HILLARY CLINTON was in town that day. CLINTON told LEWINSKY to call BETTY CURRIE if LEWINSKY received a subpoena and he would figure out what to do about it. LEWINSKY does not recall CLINTON saying she should get a lawyer, because if he did, she would have started thinking about getting one then. LEWINSKY advised CLINTON may have said during this conversation that every woman he had ever spoken to was going to be on the witness list. LEWINSKY believes that he said this during one of their telephone conversations.

On December 22, 1998, LEWINSKY took the subpoena to the office of FRANK CARTER, who may have made a copy of LEWINSKY's subpoena, but LEWINSKY is sure she kept a copy or the original one for herself. LEWINSKY did not bring the subpoena with her on December 28, 1997, when she visited CLINTON. LEWINSKY was concerned about being on the witness list and explained this concern to CLINTON. LEWINSKY asked CLINTON if he knew how she got on the witness list. CLINTON said he did not know. LEWINSKY recalls talking about the gifts with CLINTON on that occasion.

LEWINSKY advised that CLINTON was sitting in the rocking chair in the Study. LEWINSKY asked CLINTON what she should do with the gifts CLINTON had given her and he either did not respond or responded "I don't know." LEWINSKY is not sure exactly what was said, but she is certain that whatever CLINTON said, she did not have a clear image in her mind of what to do next.

LEWINSKY advised that she is certain CLINTON did not say that she had to tell the truth about their relationship if she was deposed. LEWINSKY advised she would have remembered it if he had.

LEWINSKY advised that JORDAN was the first person she contacted after being served her subpoena on December 19, 1997. LEWINSKY then may have notified her mother and then LINDA TRIPP. LEWINSKY intentionally did not tell her friends about the subpoena. LEWINSKY is not certain she told CURRIE about the subpoena. LEWINSKY is not certain CURRIE knew about the subpoena as of December 28, 1997. LEWINSKY advised that if CURRIE knew as of that date, she probably would have been more explicit in her late afternoon telephone conversation that day with LEWINSKY.

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Continuation of OIC-302 of MONICA S. LEWINSKY , On 09/03/98 , Page 2

LEWINSKY that he was experiencing difficulties in arranging the meetings due to the unavailability of BETTY CURRIE.

LEWINSKY said that the conversation with Ambassador RICHARDSON that was described in her deposition of August 26, 1998, on page 64, occurred in the middle of October 1997. However, LEWINSKY did not recall the exact date. The November 2, 1997 letter regarding Ambassador RICHARDSON, with the greeting, "Dear Betty," was not sent to CURRIE. LEWINSKY said she believed she eventually sent a shorter version of the letter.

In the days immediately preceding the visit by President ZEDILLO of Mexico to the White House on November 13, 1997, LEWINSKY was attempting to contact the President. LEWINSKY wanted to see the President on the Veterans Day holiday, because it would have been easier for the President to see her on a holiday when people were not around. LEWINSKY was angry when the President would not see her. At this point, LEWINSKY was frustrated and angry that the President would not see her, and because of the slow pace of the job search. LEWINSKY wanted to discuss both personal and job issues with the President. LEWINSKY added that in her conversations with TRIPP, TRIPP pushed and encouraged LEWINSKY to become even angrier at the President.

On December 28, 1997, in a conversation between LEWINSKY and the President, the hat pin given to LEWINSKY by the President was specifically discussed. They also discussed the general subject of the gifts the President had given Lewinsky. However, they did not discuss other specific gifts called for by the PAULA JONES subpoena. LEWINSKY got the impression that the President knew what was on the subpoena.

If CURRIE had not called LEWINSKY about returning the gifts received from the President, LEWINSKY would have probably left the gifts in her apartment. LEWINSKY would not have given the gifts to her mother or her friends. LEWINSKY did not want to cause trouble for any of these people by getting them involved. If TRIPP had threatened to tell about the gifts, LEWINSKY would have probably thrown them away.

On January 4, 1998, LEWINSKY delivered to CURRIE a letter for the President, which LEWINSKY referred to as the "Titanic letter." In a telephone conversation of January 5, 1998, the romantic portion of the letter was briefly discussed by LEWINSKY and the President. LEWINSKY told the President that she deserved to have sexual intercourse with him at least once, out of fairness to LEWINSKY.

EXHIBIT E

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September 30, 1998

UNDER SEAL

VIA FACSIMILE AND U.S. MAIL

Honorable Susan Webber Wright
United States District Court for the
Eastern District of Arkansas
600 West Capitol Avenue
Little Rock, Arkansas 72201-3325

Re: Jones v. Clinton, Civil Action No. LR-C-94-290

Dear Judge Wright:

As you are aware, Ms. Monica Lewinsky submitted an affidavit dated January 7, 1998 in the above-captioned case in support of her motion to quash the subpoena for her testimony. This affidavit was made part of the record of President Clinton's deposition on January 17, 1998.

It has recently been made public in the Starr Report that Ms. Lewinsky testified before a federal grand jury in August 1998 that portions of her affidavit were misleading and not true. Therefore, pursuant to our professional responsibility, we wanted to advise you that the Court should not rely on Ms. Lewinsky's affidavit or remarks of counsel characterizing that affidavit.

Very truly yours,


Robert S. Bennett

cc: Donovan Campbell, Jr., Esq.

EXHIBIT F

OIC-302 (Rev. 5-19-94)

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/24/98

BETTY CURRIE, date of birth [REDACTED], Social Security Account Number [REDACTED], Personal Secretary to the President of the United States of America, was apprised of the official identity of the interviewing Agents and the nature of the interview. CURRIE, accompanied by her attorneys LAWRENCE H. WECHSLER and KARL N. METZNER, voluntarily appeared at Room 618 of the Residence Inn by Marriott, 7335 Wisconsin Avenue, Bethesda, Maryland for the purpose of being interviewed by members of the Office of the Independent Counsel. Also present for the interview was Deputy Independent Counsel (DIC) ROBERT BITTMAN. The interview began at 10:15 a.m. and ended at 3:18 p.m., with a lunch break taken from 12:50 p.m. until 2:01 p.m.. CURRIE provided the following information:

CURRIE advised the first time she recalls meeting MONICA LEWINSKY was when LEWINSKY worked in the former White House Chief of Staff LEON PANETTA's office. At the time, LEWINSKY was an intern in PANETTA's office and CURRIE would deal with her on an hourly basis. Eventually, LEWINSKY moved to a staff position and CURRIE would deal with her on a daily basis. CURRIE said she has a deep respect for all interns, as they volunteer their services and work very hard. While LEWINSKY was employed in the White House, CURRIE had no contact with her socially.

CURRIE described her relationship with LEWINSKY as a friendship. CURRIE advised LEWINSKY was very helpful to CURRIE when CURRIE was dealing with some personal tragedies. CURRIE advised she had a motherly relationship with LEWINSKY. CURRIE advised she and LEWINSKY would discuss each other's families, LEWINSKY's travels and other "chit chat." CURRIE recalls giving LEWINSKY a ride home once. CURRIE advised she has never been inside LEWINSKY's apartment. CURRIE believes LEWINSKY came to CURRIE's home once or twice. CURRIE advised she and LEWINSKY met one evening after work for drinks at the Hay-Adams Hotel.

CURRIE advised LEWINSKY would visit at the White House after LEWINSKY's work day at the Pentagon. CURRIE advised that sometimes LEWINSKY would visit CURRIE, sometimes she would visit with CURRIE and CLINTON at the same time, and sometimes LEWINSKY would visit CLINTON alone. CURRIE advised that CLINTON and

Investigation on 1/24/98 at Bethesda, Maryland File # 29D-OIC-LR-35063

by SA [REDACTED]
SA [REDACTED] Date dictated 1/24/98

sd

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Continuation of OIC-302 of BETTY CURRIE, On 1/24/98, Page 3

CURRIE advised LEWINSKY and CLINTON were left alone for about thirty minutes.

CURRIE advised LEWINSKY sent packages to the White House via courier. CURRIE advised LEWINSKY sent some gifts intended for CURRIE and some for CLINTON. CURRIE advised the packages intended for CURRIE would be addressed to CURRIE's attention. CURRIE advised the gifts intended for CLINTON would be sent to the White House to CURRIE, but marked "personal" for CLINTON. CURRIE forwarded the packages for CLINTON to him unopened. CURRIE kept a log of all gifts CLINTON received. CURRIE recalls approximately five gifts sent by LEWINSKY to CLINTON. The only gift CURRIE specifically recalls is a tie LEWINSKY gave CLINTON in August of 1996 for his birthday. CURRIE advised there is an office in the White House which is responsible for documenting gifts sent to the White House and the President.

CURRIE advised that when CLINTON returned from Martha's Vineyard in September of 1997, he returned with a box of gifts from a restaurant/bar called the "Black Dog." CLINTON advised CURRIE to distribute the gifts to the White House staff. CURRIE advised she recalled giving some items to MARSHA SCOTT and others on the staff. CURRIE advised the box was left on her desk and the staff could take as many things as they wanted. CURRIE advised she told CLINTON she would give some things to LEWINSKY and CLINTON advised that would be fine.

Sometime in December of 1997, LEWINSKY called CURRIE and advised she had to return all the gifts CLINTON had given LEWINSKY as there was talk going around about the gifts. CURRIE advised that LEWINSKY said she was uncomfortable holding the gifts. CURRIE advised she took the box from LEWINSKY, left it unopened, and put it under CURRIE's bed. CURRIE is not sure where LEWINSKY gave CURRIE the box, but it was not in the White House.

CURRIE advised LEWINSKY called at one point and indicated she needed an attorney. CURRIE contacted VERNON JORDAN and he got LEWINSKY an attorney.

CURRIE advised that LEWINSKY was distraught over having to leave the White House. LEWINSKY and another staff assistant,

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██████████ were asked to leave the White House at the same time. The rumor CURRIE heard at the time was that LEWINSKY ██████████ CURRIE advised LEWINSKY got a better job at the Pentagon than the one she had while at the White House.

CURRIE advised that because LEWINSKY was so intent on returning to a job at the White House CURRIE tried to help LEWINSKY find one. CURRIE first went to MARSHA SCOTT to assist in this endeavor. CURRIE advised that eventually LEWINSKY said she was looking for a job in New York. CURRIE advised she would see what she could do to help. CURRIE contacted JOHN PODESTA in the White House on LEWINSKY's behalf. CURRIE advised she may have told PODESTA that LEWINSKY formerly worked in the White House. CURRIE advised that PODESTA arranged for LEWINSKY to interview with BILL RICHARDSON, the United States' Ambassador to the United Nations. CURRIE advised that LEWINSKY told her that LEWINSKY interviewed with RICHARDSON in Washington, DC.

CURRIE advised that LEWINSKY indicated that LEWINSKY was offered a position with the United Nations. CURRIE advised that LEWINSKY liked the job at the United Nations, but it was too similar to her job at the Pentagon. CURRIE advised that she contacted VERNON JORDAN and told him she had a friend who had worked at the White House and who currently worked at the Pentagon. CURRIE advised she has known JORDAN for over twenty years and considers herself a social acquaintance of his. CURRIE advised she speaks to JORDAN approximately once a week.

CURRIE advised she decided to contact JORDAN based in part on LEWINSKY's desperation to find a job and in part on JORDAN's numerous business contacts. CURRIE advised she had never called JORDAN before on a friend's behalf. CURRIE advised JORDAN said he would do what he could. CURRIE advised she recalls LEWINSKY interviewing with some company with two names and one of them might have been RUBICON, but CURRIE is not sure. CURRIE recalls LEWINSKY taking a written test for one of her interviews and LEWINSKY had two interviews with REVLON. CURRIE advised she thought the REVLON job was guaranteed and that LEWINSKY was to start on January 26, 1998. CURRIE is not aware of anything about the job being contingent on LEWINSKY signing anything.

BBA

Betty Currie, 1/27/98

XMAJTY

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(1) Q Okay. With the exception of the pizza time.
 (2) A Now, the time with the buttons, I don't know
 (3) whether she was a staffer or not then, I can't remember.
 (4) But the other times I talked were after she had left the
 (5) employment of the White House.
 (6) Q Are you reaching for a tissue?
 (7) A Pardon?
 (8) MR. BINHAK: Were you looking for a tissue?
 (9) THE WITNESS: I am.
 (10) MR. BINHAK: We have some here.
 (11) THE WITNESS: Mine are softer.
 (12) MR. BINHAK: That's government issue. (Handing
 (13) tissue.)
 (14) THE WITNESS: Oh, thank you.
 (15) MR. BINHAK: So you don't have to use the
 (16) government issues.
 (17) MR. BITTMAN: Would you like to take a break?
 (18) THE WITNESS: Could I?
 (19) MR. BITTMAN: Yes.
 (20) THE WITNESS: Okay. I'll blow my nose.
 (21) (A break was taken from 11:24 a.m. until
 (22) 11:28 a.m.)
 (23)
 (24)
 (25)

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(1) THE FOREPERSON: Mrs. Currie, you're still under
 (2) oath.
 (3) THE WITNESS: Thank you very much.
 (4) BY MR. BITTMAN: Q Mrs. Currie, can you get from the Oval Office
 (5) directly to the study?
 (6) Q Can you get to the --
 (7) Q Is there a door that goes directly from the Oval
 (8) Office to the study, or do you have to go down a hallway from
 (9) the Oval Office to get to the study?
 (10) A To get to the study, you have to go -- there are
 (11) two ways you can -- well, I'll tell you the easiest. You go
 (12) -- you enter the Oval Office and you go down a short hall and
 (13) then there's the study.
 (14) You can probably also get to the study from the
 (15) pantry or dining room area. You come in, then go this way to
 (16) the study.
 (17) Q But that's from the opposite direction.
 (18) A Correct.
 (19) Q There is only one door to the study; is that
 (20) correct?
 (21) A Correct.
 (22) Q And that is in the hallway.
 (23) A Correct.
 (24) Q Okay. On the occasions that you've just described,
 (25)

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(1) The several occasions where the President and Ms. Lewinsky
 (2) were by themselves either in the Oval Office or in the study.
 (3) Was Mrs. Clinton in the West Wing of the White House, as far
 (4) as you know?
 (5) A I have no idea. I do not know.
 (6) Q Did you see her during those periods of time?
 (7) A I don't remember seeing her at all, no.
 (8) Q What about other staff -- that is, the President's
 (9) personal aide or other staff besides yourself -- do you
 (10) remember anyone else being present in the general area
 (11) where the President and Ms. Lewinsky were by themselves
 (12) in the Oval Office or in the study?
 (13) A Since they were work days -- well, since there were
 (14) staff always there, I mean, the possibility exists that yes.
 (15) Q Okay.
 (16) A The stewards could have been there, the agents were
 (17) there, so -- (shrugging.)
 (18) Q Let me ask you about some calls, phone calls, to
 (19) Ms. Lewinsky. Have you ever called Ms. Lewinsky?
 (20) A Yes, I have called Ms. Lewinsky.
 (21) Q And on how many occasions, approximately, have you
 (22) called her?
 (23) A Several. Does that --
 (24) Q (Nodding.)
 (25) A Okay.

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(1) Q Have you ever called Ms. Lewinsky on behalf of the
 (2) President?
 (3) A I don't remember calling her on behalf of the
 (4) President.
 (5) Q Did you ever call Ms. Lewinsky where the President
 (6) asked you to get in touch with Ms. Lewinsky?
 (7) A Ever called Ms. Lewinsky --
 (8) Q Well, let me rephrase. Has the President ever
 (9) asked you to call Ms. Lewinsky?
 (10) A I don't remember exactly when, but I'm sure he has
 (11) on more than one occasion?
 (12) A Probably on more than one, but I don't know
 (13) how many.
 (14) Q Okay. You indicated to us -- that is, me and some
 (15) FBI agents -- over the past three days that you have had
 (16) occasion to call Ms. Lewinsky at her work at the Pentagon --
 (17) Correct.
 (18) Q -- on several occasions.
 (19) A (Nodding.)
 (20) Q You're going to have to answer.
 (21) A Oh, I'm sorry.
 (22) Q Have you called her on several occasions at the
 (23) Pentagon?
 (24) A Yes.
 (25) Q And that on more than half of the occasions that

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(1) you called Ms. Lewinsky at the Pentagon, you called on behalf
 (2) of the President or for the President.
 (3) A Repeat that.
 (4) Q On the several occasions that you called
 (5) Ms. Lewinsky at the Pentagon, you told us that you called
 (6) more than half of the time for the President or on behalf of
 (7) the President.
 (8) A I don't know.
 (9) Q Okay. Is it fair to say that the only times you
 (10) have called Ms. Lewinsky were either for personal reasons
 (11) related to yourself --
 (12) A (Nodding.)
 (13) Q Or because the President has asked you to call? Is
 (14) that fair?
 (15) A That's not exactly.
 (16) Q Okay. Explain, please.
 (17) A Yes. I would call her returning her call. It
 (18) wasn't that -- so much that he had asked me to call her.
 (19) Q Okay. Maybe not asked you to call, but that the
 (20) calls were related to the President and Ms. Lewinsky, in that
 (21) you were arranging a meeting or arranging some communication
 (22) between the President and Ms. Lewinsky. Is that a better --
 (23) A That's a better -- okay.
 (24) Q Okay. Would it be fair, then, to say that on the
 (25) several occasions that you called Ms. Lewinsky at the

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(1) Pentagon, that on more than half of those occasions you
 (2) called to talk to Ms. Lewinsky about some meeting or
 (3) communication between the President and Ms. Lewinsky?
 (4) A I hate to say yes because it seems like there's --
 (5) that's all that I was doing, but -- okay.
 (6) Q Okay. Well, let's clarify the record and make it
 (7) clear, because you were friends with Ms. Lewinsky, weren't
 (8) you?
 (9) A Yes, sir.
 (10) Q And there were many times that you called
 (11) Ms. Lewinsky on your own because she was very thoughtful to
 (12) you with regard to some of the painful things that were going
 (13) on in your family, especially around Christmas last year.
 (14) A Min-um.
 (15) Q All I'm asking, and all the grand jurors want to
 (16) know, is, you know, how many times did you call on behalf of
 (17) yourself and how many times, approximately, did you call when
 (18) you were just arranging something between the President and
 (19) Ms. Lewinsky?
 (20) A It would just be hard to give a time. I mean,
 (21) sometimes they'd overlap, where she'd call to say some
 (22) personal stuff, and then, oh, by the way -- so it would --
 (23) it's just hard to put it.
 (24) Q Okay. Would it be fair, though, to say that about
 (25) half or maybe a little more than half the time you talked to

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BEA Betty Currie, 1/27/98

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Ms. Lewinsky at the Pentagon, that you talked about things related to Ms. Lewinsky and the President?

A Okay.

Q Okay -- yes or no?

A I have two men looking at me. Okay, yes.

Q Did you ever call Ms. Lewinsky at her home?

A Yes, sir.

Q On more than one occasion?

A Probably, yes, sir.

Q I'm going to ask you the same question about calling her home. On the times that you called Ms. Lewinsky at her home, about how many times when you talked to her was it about the President and Ms. Lewinsky? Was it about half the time, more than half or less than half?

A We had a lot of personal conversations. I mean -- less than half.

Q Less than half. Did there come a time that you paged -- that is, Ms. Lewinsky had a pager, paging system, and that you paged Ms. Lewinsky?

A Correct.

Q Have you had occasion to page her?

A Yes.

Q And of the times that you've paged Ms. Lewinsky, about how many times were they about the President or on behalf of the President and Ms. Lewinsky?

A I'd say less than half. And that's strictly a guessimate about, sir.

Q But the times that you contacted Ms. Lewinsky when you paged her, there were several occasions when it was about the President. Is that fair to say?

A Yes, mm-hmm.

Q And when you called Ms. Lewinsky at home, there were several of those occasions where you contacted Ms. Lewinsky about the President or on behalf of the President. Is that fair?

A We'll say about, but, yes, sir.

Q Okay. You told us in our interviews over the last several days that Ms. Lewinsky recently purchased a pager -- that is, in the last several months.

A Acquired.

Q Acquired.

Q Okay. And that that's when you began to page her obviously to communicate with her, is that right?

A Yes.

Q Okay. And you also told us that approximately a month ago, Ms. Lewinsky told you that you two should use the code name "K" when communicating with each other.

A I may be off on the timing, but, yes, we decided to use "K."

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A Correct.

Q And did she, in fact, use the code name "K" when communicating with you via pager?

A Correct.

Q Why did you use the code name "K"?

A I tried to think why we picked it up, and when we were talking the other day, I thought for "Okay," but -- I don't remember (snuggling).

Q When you were first communicating with Ms. Lewinsky when she bought her pager, were you using your true name?

A I'm sure I --

Q So why did you use the name "K" as opposed to your real name?

A I don't know. It was suggested. Fine.

Q Let me ask you now about packages and gifts sent by Ms. Lewinsky to the President. You told us that Ms. Lewinsky on several occasions sent packages to the President; is that correct?

A That's correct.

Q About how many packages did Ms. Lewinsky send to the President while she was employed at the Pentagon?

A I'd only be guessing, sir. I don't know. I --

Q Was it several?

A How many packages -- I'd say several.

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Q Can you tell us what Ms. Lewinsky said as to -- how the matter came up and what she said about using a code name when communicating with each other via pager?

A I can't remember exactly. I don't know if it was a conversation or if it just occurred. But it was decided that we would use "K." I would use "K" and she would use "K."

Q You just said, "It was decided." Didn't you tell us that it was Ms. Lewinsky that suggested -- in fact, told you that there were some things going on, that you should begin to use some codes when communicating?

A Refresh my memory on that. I'm getting --

Q I thought that you told us that beginning about a month ago, Ms. Lewinsky said that there were some things going on, and she didn't specify exactly what they were, but that there were some things going on, and she thought, to protect you and her, that it may be better to use code names when you communicate via pager.

A Yeah, the best I can remember -- I don't remember her saying there were things going on. It's just too much in my head. But that we should use a code name.

Q But it was her suggestion.

A The best I remember, yes, sir, it was her suggestion.

Q And did you, in fact, use the code name "K" when communicating with Ms. Lewinsky?

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Q How would she send packages to you, or to the President, actually?

A What I remember mostly is that, to the best -- through a courier service.

Q And how would the package come to you?

A It would be couriered to -- and the courier would leave the package at one of the gates, and then the gate would call and say that there's a package. And then I would usually send an e-mail out to pick up the package.

Q And what would you do when you got the package?

A Depending on what the package was -- if it was for me, which a lot of them were or -- I would open. If it was for him, I would open it, and usually either put it behind my desk in his mailbox area, his -- where he picked up his mail.

Q That's where I usually put it.

Q Okay. Were there several occasions when Ms. Lewinsky sent a package to the President for the President?

A Were there several occasions where she sent a package to the President for the President?

Q Yes.

A Yes.

Q And that would always go through you, as far as you knew?

A As far as I knew.

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Q Do you know what any of the packages were, what was in them?

A If they were for him, I did not open them.

Q Do you know if they were gifts or not?

A I don't know.

Q You told us that the packages that were sent this way -- that is, through the courier -- would come from the courier to the gate. You would send someone to pick it up --

A Correct.

Q -- and that a package would come to you, you would open the package, and sometimes there would be something for you, sometimes there would be something for the President, sometimes there would be something for both of you.

A Mm-hmm.

Q But you told us that most of the times, the packages were for the President.

A I --

Q If you don't remember that, say you don't remember that. Or can you estimate the approximate number of times there was a package for the President?

A I can't estimate, and I don't remember that most were for him.

Q Okay. Do you remember a time when an audiotape was sent from Monica to the President -- that is, pardon me, from Ms. Lewinsky to the President?

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Q Do you know what any of the packages were, what was in them?

A If they were for him, I did not open them.

Q Do you know if they were gifts or not?

A I don't know.

Q You told us that the packages that were sent this way -- that is, through the courier -- would come from the courier to the gate. You would send someone to pick it up --

A Correct.

Q -- and that a package would come to you, you would open the package, and sometimes there would be something for you, sometimes there would be something for the President, sometimes there would be something for both of you.

A Mm-hmm.

Q But you told us that most of the times, the packages were for the President.

A I --

Q If you don't remember that, say you don't remember that. Or can you estimate the approximate number of times there was a package for the President?

A I can't estimate, and I don't remember that most were for him.

Q Okay. Do you remember a time when an audiotape was sent from Monica to the President -- that is, pardon me, from Ms. Lewinsky to the President?

Betsy Currie, 1/27/98

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111 A I remember Monica calling for -- I don't remember
112 I kind of remember Monica calling to say she was sending a
113 package over, and it was a tape. So I said, "Fine."
114 It came and -- a package came which was tape side.
115 Q Did it have the same feel of a cassette tape?
116 A It had, I think, bubbly on it, so the best I could
117 tell, she said a tape was coming. This looked to be that --
118 Q It appeared to be the same size --
119 A Mm-hmm.
120 -- weight, and shape of a cassette tape? Is that
121 fair to say?
122 A Correct.
123 Q And what did you do with the tape, or what appeared
124 to be a cassette tape?
125 A I put it, I'm sure, if I did my normal thing,
126 behind my desk for him to pick up his mail.
127 Q Okay. And is that how you normally give things to
128 the President?
129 A Uh-huh. Occasionally, I take things in also, but --
130 or sometimes he'll be by my desk and come out and he'll --
131 I'll just hand it to him directly.
132 Q And did he pick up this package that had the same
133 size, shape, and feel of a cassette tape?
134 A I'm going to assume so because the package was
135 gone.

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136 Q Does anyone else pick up anything else from the
137 President's in-box?
138 A Uh-huh.
139 Q Who?
140 A Nancy could, the President's aide could.
141 Q This was personally addressed to the President,
142 though, right -- this package?
143 A It may have not had anything on it. What I'm --
144 the outer envelope with my name on it, and then the inner
145 envelope may have -- I don't know if it had his name on it,
146 nothing on it, or what, or if it had "Personal."
147 Q Tell us about any gifts that Ms. Lewinsky may have
148 given to the President. Are you aware of any gifts that
149 Ms. Lewinsky has given the President?
150 A Sir, I'm aware that she gave him a tie and a
151 T-shirt.
152 Q And how are you aware of that?
153 A It appeared on my August '96 birthday list. I kept
154 a list of the birthday gifts he had gotten, and it appears on
155 there that Monica Lewinsky gave him a tie and a T-shirt.
156 Q Do you know whether the President ever wore that
157 tie?
158 A That tie?
159 Q Yes.
160 A I don't know.

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161 Q Have you seen a photograph of the President giving
162 the State of the Union address on which he writes to
163 Ms. Lewinsky, "Nice tie?"
164 A No.
165 Q "Thanks for the tie," something like that?
166 A No.
167 Q No? Am I referring to something else?
168 A Mm-hmm.
169 Q What else am I referring to? I need all the help I
170 can get.
171 A I will help you.
172 Q Please.
173 I remember seeing a picture of the President by
174 himself, fully attired, and it says -- excuse me, always be
175 attired. But it said, "Thanks for the tie."
176 So you would think that's what he has on, the tie.
177 Q Okay. And that was to Ms. Lewinsky, that is, the
178 inscription.
179 A It may have said, "To Monica," it may have said,
180 "Ms. Lewinsky," but --
181 Q And from the President.
182 A Mm-hmm.
183 Q Okay. Did Ms. Lewinsky have a special name for the
184 President?
185 A To the best that I remember, she would call

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186 him Handsome.
187 Q Has Ms. Lewinsky ever called the President Handsome
188 in his presence that you heard?
189 A Lots of people do, and, yes, I've heard her say
190 that.
191 Q And in your conversations with Ms. Lewinsky, does
192 she often refer to the President as Handsome?
193 A Not often.
194 Q Not often?
195 A No.
196 Q Sometimes?
197 A It's been said, yes.
198 Q Okay. Tell us about last Valentine's Day and
199 whether you were aware of any special message from
200 Ms. Lewinsky to the President.
201 A Are you asking me now am I aware, or was I aware
202 last Valentine's Day?
203 Q First, whether you were aware last Valentine's Day.
204 To the best that I remember, I was not aware last
205 Valentine's Day.
206 Q What are you aware of now?
207 A That a personal ad was submitted to the
208 Valentine Day classifieds, if that's what they call it.
209 Q And what was the ad?
210 A I don't remember what it said, but there was an ad,

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211 "To Handsome from M."
212 Q And did Ms. Lewinsky ever tell you whether she
213 placed the ad or not?
214 A I can't remember her saying.
215 Q How are you aware that this ad even exists?
216 A When I went to the lawyer's office, we opened up a
217 box of things I had, and that was in it.
218 Q The ad.
219 A Mm-hmm.
220 Q Okay. Have you ever seen a mug at the White House
221 that has the words, "Santa Monica," on it?
222 A I remember seeing a mug in the Oval Office area,
223 because I don't remember exactly where, that had "Santa
224 Monica" on it.
225 Q When you say, "in the Oval Office area," what do
226 you mean?
227 A It could have been in my area, it could have been
228 the Oval Office, it could have been in the study, it could
229 have been in the dining room, or it could have been in a
230 gallery area. He keeps a collection of mugs back there.
231 Q And wherever you saw the mug, was it your
232 understanding that it belonged to the President?
233 A Mm-hmm.
234 Q You're going to have to say "Yes" or "No."
235 A I'm sorry, yes.

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236 Q Okay. How recently did you see this mug? Was it
237 within the last six months?
238 A Yes, sir.
239 Q Had you seen it prior to that? That is, this was a
240 mug that you had not seen --
241 A To the best of my knowledge, I had not seen it
242 before.
243 Q Okay. Do you know who gave him the mug?
244 A I do not.
245 Q Last month -- in our meetings with you, you
246 indicated that last month you received a box of items from
247 Ms. Lewinsky.
248 A Say it again.
249 Q You told us when we met with you over these last
250 three days that Ms. Lewinsky gave you a bunch of items.
251 A Mm-hmm.
252 Q Can you tell us about --
253 A I thought you said last month. I don't know when
254 she gave them to me. That's what I was --
255 Q Okay, I'm sorry. Approximately when did she give
256 you these items?
257 A I don't know. I can't --
258 Q Was it within the last several months?
259 A Can we use the six again?
260 Q You want to use within the last six months?

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(1) A Yeah.

(2) Q Okay. Why don't we use that then?

(3) A Very good.

(4) Q And explain to us what happened.

(5) A Monica said she was getting concerned, and she

(6) wanted to give me the stuff the President had given her -

(7) or give me a box of stuff. It was a box of stuff.

(8) Q Now, you first said that she said it was the stuff

(9) that the President had given her.

(10) A Well, what - since we subsequently opened it,

(11) that's the only reason I added -

(12) Q But did Ms. Lewinsky tell you that it was the stuff

(13) that the President gave her?

(14) A She may have used the words - she may have said -

(15) I'm only guessing, because once I opened it, I -

(16) Q But it was your understanding at the time you

(17) received the box from Ms. Lewinsky that they were items that

(18) had been given to Ms. Lewinsky by the President; is that

(19) right? That was your understanding at the time -

(20) A Right.

(21) Q - you received the box.

(22) A Mm-hmm.

(23) Q And your understanding would have come only from

(24) Ms. Lewinsky.

(25) A Correct.

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(1) Q What did you do with the box?

(2) A I put it under my bed.

(3) Q Did Ms. Lewinsky tell you why she wanted to give

(4) you this box of stuff?

(5) A I think she was just getting concerned. I think

(6) people were asking questions about stuff she had gotten.

(7) Q Do you know who had been asking the questions?

(8) A Sir, no, I don't.

(9) Q Did you open the box -

(10) A (Shaking head.)

(11) Q Pardon me. You're going to have to answer for the

(12) record.

(13) A I was waiting for you to finish, then I was going

(14) to answer.

(15) Q Okay. Did you ever open the box?

(16) A No, sir, I did not.

(17) Q Why not?

(18) A It's not my box, number one (shrugging).

(19) Q Was it your understanding that you were just to

(20) store this box until things sort of blew over, so to speak?

(21) A I was going to store it until she told me she

(22) wanted it back.

(23) Q Okay. Were you present when the box was opened?

(24) A Correct.

(25) Q Okay. Let me show you -

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(1) A Uh-oh.

(2) Q - what will be marked as an exhibit, AD-2. Can

(3) you make it BC-1 instead of AD?

(4) (Grand Jury Exhibit No. BC-1 was

(5) marked for identification.)

(6) BY MR. BITTMAN:

(7) Q Can you identify the document first by exhibit

(8) number, bottom right corner.

(9) A It's BC-1.

(10) Q What is the document?

(11) A It's a document from - delivered - it's from

(12) Mr. Starr and it's from the law firm of Jans, Scheulke, &

(13) Wechsler.

(14) Q Is that a list of the things that were in the box

(15) that Ms. Lewinsky gave you?

(16) A (Examining document.) Well, on page 2, this right

(17) there was not in the box, sir (indicating).

(18) Q Okay. All the items that are listed on page 2,

(19) they were not in the box?

(20) A No. The top one, I think, was in the box. The

(21) framed picture was in the box. But the other things were not

(22) in the box, to my -

(23) Q Where did the other items come from?

(24) A Do you have a copy, too?

(25) Q Yes.

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(1) A The Tiffany's hand cream and lotion, they were

(2) gifts she had given my mother. And I was told to bring back

(3) any - the subpoena asked me to bring back anything I had

(4) that -

(5) Q Oh, okay. So the Tiffany hand cream and the

(6) Tiffany body mist were gifts to you.

(7) A To my mother.

(8) Q To your mother.

(9) A Mm-hmm.

(10) Q And what about the sympathy card?

(11) A That was stuff I had at home - he asked me to

(12) bring back everything I had. And we found the sympathy card

(13) in there from - it contained the name of somebody whose name

(14) appeared on the subpoena, so we had to send that - bring

(15) that back to -

(16) Q Okay. And what about the card with the joke about

(17) the snowman?

(18) A That was in with the sympathy card, so that was

(19) mine. And the thank-you card - that was also found with all

(20) my sympathy notes.

(21) Q And the four pages of handwritten notes?

(22) A I don't know what that is.

(23) Q Okay. You told us, Mrs. Currie, over these last

(24) three days that we've interviewed you, that you always like

(25) to think the best of people; is that right?

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(1) A Correct.

(2) Q And that with regard to the relationship between

(3) the President and Ms. Lewinsky, that you purposely wanted to

(4) believe there was no intimate relationship between them.

(5) A (Nodding.)

(6) Q Is that correct?

(7) A Correct.

(8) Q You also told us that you wanted to be able to say

(9) that you didn't know anything about any relationship between

(10) the President and Ms. Lewinsky; is that right?

(11) A True.

(12) Q Tell us what, if anything, Ms. Lewinsky told you

(13) about what would happen if somebody had seen them before so

(14) something.

(15) A I don't think we've ever talked about - we had a

(16) discussion about that.

(17) Q Did Ms. Lewinsky ever tell you that, "As long as no

(18) one saw us - and no one did - then nothing happened?"

(19) A I don't remember that conversation.

(20) Q Let me repeat it for you.

(21) A Okay.

(22) Q Did Ms. Lewinsky ever tell you, "As long as no one

(23) saw us - and no one did - then nothing happened," while she

(24) was speaking about the President?

(25) Would you like me to repeat it?

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(1) A I don't remember that. Repeat it again.

(2) Q Okay. "As long as no one saw us - and no one did

(3) - then nothing happened."

(4) A Sir, I don't remember that.

(5) Q Do you remember Ms. Lewinsky ever saying anything

(6) like that?

(7) A Can I step out for a moment?

(8) Q Yes, you may.

(9) (Witness excused to confer with counsel.)

(10) FOREPERSON: Mrs. Currie, you're reminded that

(11) you're still under oath.

(12) THE WITNESS: Thank you very much.

(13) MR. BITTMAN: Is there a quorum present,

(14) Madam Foreperson?

(15) THE WITNESS: Yes, we do have a quorum.

(16) THE WITNESS: Mr. Bittman, a conversation could

(17) have occurred where Monica would have said - (indicating).

(18) BY MR. BITTMAN:

(19) Q What I said?

(20) A Yes.

(21) Q Would you like me to repeat it for you?

(22) A Please do.

(23) Q "As long as no one saw us - and no one did - then

(24) nothing happened."

(25) nothing happened."

BBA

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EMAC/10/10

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1: that correct?
 2: They were at my desk for a while. Then they
 3: probably went into the Oval, and I do know what they were
 4: doing.
 5: Q And it was after that, I believe, that you received
 6: the box of gifts that Monica gave you to hold?
 7: A It was after.
 8: Q After that visit.
 9: A Correct.
 10: Q How long after that visit?
 11: A Now I'm going to try to remember. A couple weeks.
 12: A I guess again.
 13: Q And did the President tell you to call Monica, and
 14: he was the one that said, "Monica has something for you to
 15: hold, has some stuff that she wants you to keep for a while"?
 16: A I don't remember that.
 17: Q You're saying it didn't happen, or is it probable
 18: that it happened?
 19: A My recollection -- the best I remember is Monica
 20: calling me and asking if I'd hold some gifts for her. I said
 21: I would.
 22: Q And did the President know you were holding these
 23: things for Monica?
 24: A I don't know. I don't know.
 25: Q Didn't he say to you that Monica had something for

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1: house -- I drove to her -- outside of her residence and
 2: picked up the box.
 3: Q How many times had you been to her residence
 4: before?
 5: A Twice. I took her home one day after work, but
 6: never inside her residence. I just dropped her off in front
 7: of the Watergate. And then when I picked up the box. So
 8: twice, that I remember, just twice.
 9: Q Did you go with anyone to pick up the box?
 10: A It was after work and I was by myself.
 11: Q So it would be fair to say it was pretty important
 12: to pick it up.
 13: A I wouldn't say that.
 14: Q And it was the only other time you'd ever been to
 15: her apartment.
 16: A I could have picked it up probably any time, but I
 17: was -- she called me and asked me to come by on my way home
 18: and pick it up.
 19: Q And then what did you do with it?
 20: A Put it under my bed.
 21: Q What was the occasion when you took Monica home?
 22: A What was the occasion?
 23: Q Yes.
 24: A After one of her meetings. The best I remember, if
 25: she was leaving and I was leaving at the same time, I'd offer

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1: you to hold?
 2: A I don't remember that. I don't.
 3: Q Did you ever talk to the President and tell him you
 4: had this box from Monica?
 5: A I don't remember that either.
 6: Q Do you think it happened, though?
 7: A I don't know. I don't know.
 8: Q What exactly did Monica say when --
 9: A The best I remember she said that she wanted me to
 10: hold these gifts -- hold this -- she may have said gifts, I'm
 11: sure she said gifts, box of gifts -- I don't remember --
 12: because people were asking questions. And I said, "Fine."
 13: Q It was your understanding, wasn't it, that these
 14: were gifts that the President had given her?
 15: A Mr. Brittan, I don't know whether she said gifts
 16: from the President or gifts. I know some of the items in the
 17: box were gifts from the President. I don't know what was in
 18: the box.
 19: Q So you knew that some of the gifts in the box were
 20: from the President. So it was your understanding that at
 21: least some of them --
 22: A (Nodding.)
 23: Q I'm sorry. You were nodding your head yes.
 24: A Well, he had finished talking --
 25: Q It's my fault. It's entirely too close to lunch.

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1: to give her a ride home.
 2: Q After one of her meetings with the President.
 3: A After one of her meetings in the Oval Office with
 4: me or whoever it was.
 5: Q Okay.
 6: A I don't know which it was.
 7: Q Did you actually meet with her in the Oval Office,
 8: with Monica?
 9: A Meet with her, no. In answer to the question, no.
 10: Only the President has meetings in the Oval Office. But we
 11: could be standing in there or something, talking.
 12: Q And you would wait -- and then you would leave
 13: after the President arrived or something.
 14: A Mm-hmm.
 15: Q Okay.
 16: A Or we both walked back to my desk, or we --
 17: whatever.
 18: (Grand Jury Exhibit No. BC2-8 was
 19: marked for identification.)
 20: BY MR. BITTMAN:
 21: Q Okay. The box, can you read the Grand Jury Exhibit
 22: number on there, please?
 23: A BC2-8.
 24: Q BC2-8.
 25: A Correct.

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1: A I'm sorry. Repeat your question.
 2: Q So you knew that some of the gifts in the box were
 3: from the President.
 4: A I knew that some of them -- yes, she told me that.
 5: Q She told you that. What else did she say was in
 6: the box?
 7: A I don't think she said. The box were gifts.
 8: Q And these questions that were being asked, what
 9: were the questions? What was the nature of the questions?
 10: A The best I remember, she said that Mr. Isakoff was
 11: making inquiries about the gifts.
 12: Q Anyone else?
 13: A That's the only name she mentioned. It's the only
 14: name I remember.
 15: Q Was it your understanding also that some of the
 16: questions that were being asked were related to the Paula
 17: Jones lawsuit?
 18: A The question is, did I think the questions that
 19: were being asked were related to Paula Jones lawsuit?
 20: Q Right.
 21: A I don't remember what Isakoff -- I don't remember
 22: if there was --
 23: Q Where did this exchange take place that she
 24: actually gave you the box?
 25: A Now, the best I remember, that I went to her

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1: Q Is that a photograph of the box that Ms. Lewinsky
 2: gave you after December 28, 1997, when you went to her
 3: apartment to pick it up?
 4: A No, I didn't have this red strip on it.
 5: Q That has the evidence tape on it?
 6: A Mm-hmm.
 7: Q Okay. Besides that?
 8: A The best I remember, it looked like this.
 9: Q Whose handwriting is that in the upper left-hand
 10: corner? Could you read that for the grand jurors, please?
 11: A "Please do not throw away!!!" I'm going to assume
 12: it's Monica's handwriting.
 13: Q It is not your handwriting.
 14: A It is not my handwriting.
 15: Q So when you were given that box, that handwriting
 16: was already on it.
 17: A Correct.
 18: MR. BITTMAN: Can we take our lunch break now?
 19: MR. WISENBERG: Do you want me to check and see if
 20: it's here?
 21: MR. BITTMAN: I thought we were supposed to be
 22: notified.
 23: A JUROR: Mrs. Currie, how large is the box? And
 24: was it heavy?
 25: THE WITNESS: To my -- it's about this size

DOJ

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(indicating).
 A JUROR: So that would be about like -
 THE WITNESS: Eleven-by-14? Is that -
 MR. BITTMAN: Is the lunch here?
 THE WITNESS: No, it was not here.
 THE FOREPERSON: Let's break anyway.
 BY MR. BITTMAN:
 Q I have some pictures here I'll show you. I'll admit them and then show you.
 A The measurements, what it was?
 Q Well, we've got things that can give you an idea. Because there's a piece of paper, 8 1/2 by 11 piece of paper on it, so we can show you.
 MR. BITTMAN: Is that all right, Madam Forelady, if we take a break?
 THE FOREPERSON: That's fine. And why don't we reconvene at a quarter to 2:00?
 MR. BITTMAN: All right. And, Mrs. Currie, we won't reconvene before quarter to 2:00, and we will come get you when we have a quorum, okay?
 THE WITNESS: All right, thank you.
 (The witness was excused.)
 (Whereupon, at 12:45 p.m., a luncheon recess was taken.)

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AFTERNOON SESSION
 (1:53 p.m.)
 BETTY WILLIAMS CURRIE
 (was recalled as a witness and, having been previously duly sworn by the Foreperson of the Grand Jury, was examined and testified further as follows:
 EXAMINATION (RESUMED)
 MR. BITTMAN: Okay. We're back on the record. Madam Forelady, do we have a quorum?
 THE FOREPERSON: Yes, we do. And there are no unauthorized people in the room.
 Mrs. Currie, you're still under oath.
 THE WITNESS: Thank you very much. Yes.
 BY MR. BITTMAN:
 Q Before our much welcomed lunch break, Mrs. Currie, we were talking about the box that Ms. Lewinsky, that Monica had given you, to hold for her and she or someone had apparently written at the top of the box "Please do not throw away."
 A Correct.
 Q What were Monica's instructions to you when she gave you the box?
 A The only instructions I remember, sir, was for me to hold it and I said I would.
 Q Did she indicate how long?

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A She did not.
 Q And then you said you picked it up on your way home from work.
 A Correct.
 Q Do you remember what day of the week it was?
 A It was weekday, is all I know.
 Q It was a weekday. And it was after the December 28, 1997 meeting, you testified this morning.
 A Well, I'm assuming that, yes.
 Q You're assuming what? That you testified to that?
 A No, it was after that date.
 Q It was. It was after that date that this box was given to you.
 A I picked it up. Mm-hmm.
 Q And you said it was within a couple of weeks after December 28th that you picked up this box from Ms. Lewinsky.
 A Correct.
 Q Did she give you anything else when she gave you the box?
 A I don't remember anything else. No.
 Q Well, tell us all about everything that transpired about how you came to pick it up. Was this scheduled for several days? Was it just all of a sudden that she called out of the blue? Just tell us from moment one how this issue first arose and what you did about it and what Ms. Lewinsky

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told you.
 A The best I remember, it first arose with a conversation. I don't know if it was over the telephone or as person. I don't know. She asked me if I would pick up a box. She said I had been inquiring about gifts. I don't know if it was strictly presidential gifts or what, but I told her I would pick them up.
 Q And I don't know if it was the same day, I can't remember if it was the same day or the same week or what, but I told her to pick them up. And we agreed that I would come by one day after work, go by that way and pick it up. She gave it to me and I put it in my car and went home and put it under my bed.
 Q Went home and put them under your bed. Did you tell your husband?
 A No.
 Q Did you talk to Monica again about the box of gifts?
 A I don't think so. I don't remember.
 Q Did you actually go up into her apartment?
 A No, I did not.
 Q How did that -
 A She - I knew she lived in the Watergate complex and I knew it was on the side of the - the Kennedy Center

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side. And so I drove up and she came out of the lobby area and I was sort of sitting in the curbside area.
 Q Was she with anyone?
 A I didn't see anybody.
 Q What did she say to you when she gave you the box?
 A The best I remember, she said, "Here's the box."
 Q What city do you live in, Mrs. Currie?
 A Arlington.
 Q And Monica knew that, correct?
 A Yes.
 Q What was the other occasion when you had occasion to be at her home?
 A One day after her visit, one day when she was in the White House, I gave her a ride home.
 Q Do you have any idea, any memory, of when that was?
 A I don't remember, sir.
 Q How many times have you actually traveled in the same car as Monica?
 A To my knowing, twice. When I gave her a ride home and then when she gave me a ride to Vernon Jordan's office. That's the only time I remember.
 Q Was the ride to Vernon Jordan's office before or after she gave you the box of gifts?
 A I don't remember, but I would think before. I don't know.

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Q The ride to Vernon Jordan's office was, you think, before she gave you the box of gifts?
 A I think the ride to Vernon Jordan's was after I got the gifts.
 Q After you got the gifts.
 A Mm-hmm.
 Q Okay. There came a time when Ms. Lewinsky used Vernon Jordan to help her get an attorney and that was because she was identified as a witness in the Paula Jones case.
 A Mm-hmm.
 Q Tell us what Monica told you about that.
 A I don't remember anything about Paula Jones. The only thing I remember is that she had gotten a lawyer or she was getting a lawyer or - I don't know if I even knew it was regarding Paula Jones.
 Q All right. Well, you know - let's back up to Paula Jones period. You knew that the case existed and that the President obviously was one of the two defendants. Yes or no?
 A I thought you were going on. I was aware of the case. I was aware that the President was one of two defendants. I knew he was a defendant or a party in the suit. My legalese is not -
 Q And do you remember that he had to give a

-Start

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111 deposition in the case?
 112 A I remember the President had to give a deposition.
 113 Q And you remember that there were a number of
 114 allegations throughout the lawsuit of possibly other women
 115 being witnesses in the case.
 116 A I had gotten confused. All this stuff was coming
 117 together and I didn't know which case was which, I just
 118 knew -- if someone told me to separate Whitewater from Paula
 119 Jones, I couldn't, so I thought it was all one case. But on
 120 Paula Jones -- your question again?
 121 Q My question is you knew at some point that there
 122 were allegations that other women besides Paula Jones might
 123 be witnesses in that case.
 124 A I knew there were other women being mentioned.
 125 Q Okay. And that Monica was one of the ones being
 126 mentioned at one point.
 127 A Sir, I didn't know which case Monica was being
 128 mentioned on. I just knew her name had come up.
 129 Q And that she was going to be a witness in one of
 130 those two cases.
 131 A I didn't hear the word witness. That doesn't --
 132 I'm not familiar with the word witness, that she was going to
 133 be called, whenever they use, but witness is not a word I
 134 remember.
 135 Q Okay. That she was going to be called.

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136 A Mm-hmm.
 137 Q Did you remember the term testify? That she was
 138 going to have to testify?
 139 A I don't remember that term.
 140 Q That she was going to have to give a deposition?
 141 A I don't remember that.
 142 Q Or give a statement?
 143 A No.
 144 Q What about subpoena? That a subpoena had gone to
 145 her?
 146 A I don't remember Monica getting a subpoena for
 147 anything.
 148 Q Didn't the President talk to you about Monica's
 149 name coming up in those cases?
 150 A I have a vague recollection of him saying that her
 151 name may come up. Either he told me, somebody told me, but I
 152 don't know how it would come up.
 153 Q And that was with regard to the Paula Jones case?
 154 A I don't know which one. I couldn't separate the
 155 two.
 156 Q But either the Paula Jones case or the Whitewater
 157 case.
 158 A Mm-hmm.
 159 Q You talked to the President about Monica's name
 160 coming up?

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161 A I did not talk to him -- I don't know how it came
 162 up, if he told me, if I overheard it.
 163 Q Okay. So you -- let me just get this straight.
 164 You overheard the President or a conversation the President
 165 was involved in --
 166 A Somehow or another, I overheard the word -- excuse
 167 me --
 168 Q Would you like some water?
 169 A I don't think so. I don't know what -- there.
 170 Q It could be that turkey wrap you had.
 171 A Thank you. It stopped right there. Yes. That her
 172 name had been mentioned regarding this stuff that's being
 173 involved.
 174 Q And you overheard this conversation that the
 175 President was involved in.
 176 A That Monica was involved.
 177 Q Okay. I'm sorry. I'm confusing us all. My
 178 initial question was did you hear the President talk about
 179 Monica being involved in either the Paula Jones case or the
 180 Whitewater case?
 181 A I don't recollect hearing him say those words.
 182 I recollect somebody, it could have been him, it could have
 183 been somebody else, I don't know, but I knew that her name
 184 had been connected with these cases.
 185 Q Did Monica tell you that she had been identified as

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186 being involved in the Paula Jones case?
 187 A I don't remember that, her telling me. I don't
 188 remember that.
 189 Q What information did you have that Mike Isakoff
 190 was interested in any of the things involving this box of
 191 gifts?
 192 A Let's see. I can't remember the timeframe when
 193 Isakoff's name came up or when the gifts -- but he had called
 194 some, and I don't know if it was the same timeframe or not,
 195 regarding the courier. And Monica had told me that Isakoff
 196 had called her. So that's how I knew the name Isakoff. And
 197 I think that's when she mentioned that he had called about
 198 the gifts. So when he called me, his name rang a thought in
 199 my head.
 200 Q Did Monica tell you that she had to turn these
 201 gifts over to the Paula Jones people?
 202 A I don't remember that at all.
 203 Q Did she tell you that she didn't want people to see
 204 the gifts or know about the gifts?
 205 A No, I don't remember that either.
 206 Q What did you tell Monica about your conversation
 207 with Mike Isakoff about the courier records?
 208 A The best I remember is that I told her that Isakoff
 209 had called and inquired about courier records. And she said
 210 either on that day or soon after, she told me that they had

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211 gotten her courier records -- courier records.
 212 Q And what else?
 213 A That was about it. That they had the records.
 214 Q Did you ask her when she wanted the box back or
 215 anything like that?
 216 A No.
 217 Q You didn't have the box very long.
 218 A I don't think I did. I can't remember when I gave
 219 it back up. Gave it back up after the subpoena. It couldn't
 220 have been too long because the subpoena came January?
 221 Q Yes. It came in late January, probably about
 222 January 22nd.
 223 A So I didn't have it long.
 224 Q No. Only a couple of weeks.
 225 A Probably.
 226 Q Did it trouble you at all when Monica wanted to
 227 give you this box of gifts?
 228 A No.
 229 Q Has anyone else ever asked you to hold something
 230 like this for them?
 231 A I don't know if it counts or not, but someone asked
 232 me to hold their wedding dress.
 233 Q Okay. But you knew that this was going to be a
 234 little different. I mean, Monica had -- you were using these
 235 false names when you exchanged pages, okay? She referred to

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236 the President as "her" in Monica's pages to you.
 237 You knew that the White House were suspicious of
 238 her being there and that she shouldn't be seen in the area of
 239 the Oval Office. Her name came up in the context of the
 240 Paula Jones lawsuit or the Whitewater case, she had to get a
 241 lawyer through Vernon Jordan and now she was giving you a box
 242 of gifts. What was going through your mind?
 243 A The main thing that I thought of, she needs me to
 244 hold this box of gifts. Someone needs me to do something.
 245 simple thing to do, I can do it. She was also in the process
 246 of moving.
 247 I didn't know if this was something she wanted me
 248 to hold because it had valuables in it or something or what.
 249 It appeared at the time a simple request, something I could
 250 do and I didn't mind doing.
 251 Q Did you tell anyone that you were holding these
 252 things for Monica?
 253 A I don't remember telling anybody.
 254 BY MR. WISENBERG:
 255 Q Mrs. Currie, if I'm not mistaken -- if I could ask
 256 a couple of questions -- if I'm not mistaken, when you found
 257 out Mr. Isakoff was curious about the courier records, you
 258 were concerned enough to go visit Vernon Jordan.
 259 A Correct.
 260 Q So my question to you is why weren't you equally

BMA

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(1) concerned when Monica asked you to hold these gifts.
 (2) that Isakoff was asking questions? And I think if I
 (3) understood you this morning, you knew that at least some
 (4) of these were gifts from the President. Why weren't you
 (5) equally concerned?
 (6) A Isakoff called me directly. That raised my
 (7) concern. The other stuff, he was talking somebody -- to
 (8) Monica. That was hers. But when he called me directly,
 (9) I just got somewhat concerned.
 (10) Q MR. WEINBERG. That's all I have.
 (11) BY MR. BITTMAN:
 (12) Q What was your understanding as to why Monica needed
 (13) a lawyer? It's unusual, isn't it, for a 24-year-old girl to
 (14) have to get a lawyer?
 (15) A In the town? I didn't find it unusual.
 (16) Unfortunately, at the White House everybody seems to have a
 (17) lawyer. Your question was why did I think she --
 (18) Q No. My question was what was your understanding as
 (19) to why she had one? Why she needed one?
 (20) A Now, the best I can remember, I thought it was
 (21) regarding Isakoff's stuff, whatever he was doing. His name
 (22) was just floating all over the White House with different
 (23) inquiries that he was making.
 (24) Q Of course, Monica was no longer at the White House.
 (25) She had even stopped working at the Pentagon at the time you

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(1) turning over to you the gifts he had given her?
 (2) A I don't know.
 (3) Q Did you talk to him about it?
 (4) A I don't remember talking to him about that, about
 (5) the gifts.
 (6) Q If Monica said you did, would that not be true?
 (7) A If Monica said I talked to the President about it?
 (8) Q Right.
 (9) A Then she may remember better than I. I don't
 (10) remember.
 (11) Q Did you tell the President that Mike Isakoff had
 (12) called you?
 (13) A I know I told Bruce, but I don't remember -- I
 (14) don't remember telling him, but I may have. I probably did.
 (15) I probably would have.
 (16) Q What did you tell the President?
 (17) A I probably would have told him that Isakoff called
 (18) inquiring about courier records.
 (19) Q And what did he say?
 (20) A I don't remember.
 (21) Q Courier records about who?
 (22) A Monica.
 (23) Q So you told the President --
 (24) A I probably did. I don't remember telling him, but
 (25) I know I told Bruce and I may have told the President.

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(1) turned over the box to her, right?
 (2) A I don't know when she actually stopped at the
 (3) Pentagon.
 (4) Q She stopped in late December.
 (5) A Okay.
 (6) Q So she gave you the box after she left the
 (7) Pentagon, right?
 (8) A Okay. Right.
 (9) Q So what was your understanding? That it was
 (10) related to the Isakoff thing?
 (11) A Mm-hmm.
 (12) Q And was that understanding from Monica?
 (13) A Well, since he had also called me, I mean, he had
 (14) written, I think if my timing is right, he had also written
 (15) an article in Newsweek before calling Monica, so his name was
 (16) sort of floating around, I guess as an investigative reporter
 (17) type.
 (18) Q Would it surprise you to learn that Monica got a
 (19) lawyer through your friend Vernon Jordan for the purpose of
 (20) representing her in the Paula Jones case?
 (21) A Would that surprise me?
 (22) Q Yes.
 (23) A No.
 (24) Q Do you know that to be true now?
 (25) A After I've read it in the paper?

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(1) Q Well, what was the President's response, as far as
 (2) you can remember?
 (3) A Probably like okay, fine. He had called about an
 (4) inquiry, I had talked to Vernon and to Bruce.
 (5) Q Did the President tell you to talk to Bruce
 (6) Lindsey?
 (7) A No.
 (8) Q Did you talk to Bruce Lindsey on your own, on your
 (9) own initiative? You're going to have to answer for the
 (10) record.
 (11) A I was going to answer. Yes, I did. I'm sorry.
 (12) Q So you went out and you just figured -- you got
 (13) this call from Mr. Isakoff, you probably told the President
 (14) about it.
 (15) A If I remember correctly, the first -- as soon as I
 (16) got it, I called Bruce, only because Bruce was working on
 (17) whatever Isakoff was doing, whatever he was investigating, so
 (18) I called Bruce.
 (19) Q How did you know that?
 (20) A I had read that one article he had written. He had
 (21) written something before he had called me and before he even
 (22) did -- I wish I could remember what the article was, but he
 (23) had written an article in Newsweek.
 (24) Q Are you talking about the article on Kathleen
 (25) Willey?

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(1) Q Right.
 (2) A Yes. I know it to be true now.
 (3) Q Okay. That that's why Monica got a lawyer through
 (4) Vernon Jordan, your friend.
 (5) A Okay. All right.
 (6) Q So since this box was turned over after she got her
 (7) lawyer --
 (8) A For sure?
 (9) Q Well, we know when she got the lawyer.
 (10) A Okay.
 (11) Q Do you know when?
 (12) A I don't.
 (13) Q Does it ring a bell that it was before you got this
 (14) box? I'm sorry, you're going to have to answer.
 (15) A I'm sorry. No, it does not ring a bell.
 (16) Q Okay. So now given that background with my
 (17) question, did Monica say anything about someone else wanting
 (18) these gifts?
 (19) A No.
 (20) Q These items?
 (21) A No.
 (22) Q Are you sure she did not say that?
 (23) A Sir, to the best that I can remember, I do not
 (24) remember her ever saying that.
 (25) Q What about the President's knowledge about Monica

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(1) A I don't think so. I don't remember. That could
 (2) have been it.
 (3) Q That article was in August of 1997.
 (4) A No, wasn't there another one in about December?
 (5) Q I don't know.
 (6) A I don't know.
 (7) Q I don't think so. Did you tell -- you also said
 (8) that you talked to Monica about Mike Isakoff calling her.
 (9) right? You also talked to Monica?
 (10) A Correct.
 (11) Q Did you tell the President that Mike Isakoff had
 (12) called Monica also?
 (13) A I don't remember doing that.
 (14) Q Wouldn't that be something you'd tell the
 (15) President?
 (16) A Probably, but I don't remember doing it. I
 (17) probably --
 (18) Q Wouldn't you think -- you get all these packages
 (19) from Monica. You've said you got these packages from Monica.
 (20) A You don't mean this package?
 (21) Q Not that particular package.
 (22) A Okay.
 (23) Q And that Monica usually calls you and tells you
 (24) something's coming over and you get the package and you put
 (25) it in the President's in box. Is that right?

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1: a White House, you know, to see the President, why did you
2: not get in? Because you were the one who WAVED her in
3: so many times. Why did he get into the White House if
4: you were concerned that she was spending too much time with
5: the President?
6: THE WITNESS: Sometimes she came to see me.
7: Sometimes - I mean, it was short timeframes and I would
8: avoid a lot of the times she'd want to see him. I mean, she
9: would call and I would not take her messages, but avoid her
10: calls, and so I did the best I could.
11: A JUROR: Yes, but when she came to see you, there
12: was a possibility that she might see him because you were
13: right next to his office.
14: THE WITNESS: Right.
15: A JUROR: I was just wondering, you know, if you
16: had this concern, why would you help her in that way because
17: it seemed like it was defeating the purpose.
18: THE WITNESS: Sometimes she would be so - let's
19: see - upset, I'd renege and then say, okay, fine, or
20: something.
21: A JUROR: So sometimes you felt obligated to do
22: this for her?
23: THE WITNESS: I don't want to use the word
24: obligated, but I felt -
25: A JUROR: Perhaps pressure to do it?

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1: THE WITNESS: No, I don't want to use the word
2: pressure either. I don't think I was doing anything wrong.
3: I guess.
4: A JUROR: So you think when you did it, you helped
5: her? Was she suffering as a result of not coming? And when
6: you helped her, that helped her? You know, how did it help
7: her by you doing this?
8: THE WITNESS: Well, whenever she would be a little
9: bit upset, then she would be calmer, so that was helping.
10: And when she was looking for the job time, which was a lot
11: of the times, I could calm her down with that. I could tell
12: her I was doing what I could to help her find a job.
13: A JUROR: Did Monica ever make such a nuisance of
14: herself until the President would be annoyed and then say to
15: tell her he wasn't there or something of that sort?
16: THE WITNESS: Did she make a nuisance of herself -
17: A JUROR: By calling and wanting to visit.
18: THE WITNESS: There were times I felt it was a
19: nuisance. Yes.
20: A JUROR: What about the President?
21: THE WITNESS: He didn't know as much as I did
22: because I was sort of warding off the calls and I think
23: sometimes he thought also.
24: MR. BITTMAN: Let's get into the - we've asked you
25: about - I've showed you a document where Monica talks about

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1: Vernon Jordan, that she had met with Vernon Jordan and Vernon
2: Jordan told Monica that he, Vernon, had talked to the
3: President about a job, that's in the e-mail.
4: THE WITNESS: Mm-hmm.
5: MR. BITTMAN: And now let me play for you a tape.
6: I'll just play for you the tape. This is Monica - remember
7: I told you about the package, there was a package - of
8: course, you know, you received many packages and we have the
9: receipt from the courier that corroborates that a package was
10: sent at the time of this phone call where she sent some
11: information to you to give to the President and place at his
12: desk because he was out of town for him to see and it was
13: related to the job. It was her resume and some other lists
14: of things. Why don't we play -
15: MR. LERNER: If you have a copy, I think it would
16: be easier for Mrs. Currie to follow.
17: MR. BITTMAN: I don't have a second one.
18: MR. LERNER: You don't have a second one? Well,
19: then, we're out of luck.
20: THE WITNESS: I'll listen carefully.
21: (The above-referenced tape was played.)
22: BY MR. BITTMAN:
23: Q You've already testified that the President was
24: aware of Monica being transferred out of the White House.
25: A Mm-hmm.

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1: Q You testified that you kept him at least somewhat
2: aware of your efforts to get Monica back into the White
3: House. You read Monica's e-mail about her meeting with
4: Vernon Jordan and how Mr. Jordan told her that Mr. Jordan had
5: talked to the President about getting Monica a job.
6: Here Monica talks about sending you a large packet
7: of information at the request of the President that had a
8: note on the front of it and Monica says, "She knows it's
9: coming. I put on the note - what I said to her was -" and
10: this is, if you want to look at the transcript, page 3, lines
11: 20 through 24, "She knows it's coming. I put on the note -
12: what I said to her was, you know, if she felt comfortable,
13: maybe she could leave it under his desk in the back and let
14: him know, you know, when she talks to him that it's there and
15: he could get it on Sunday." Because the President was in
16: fact, and Monica says - because he's away in Latin America,
17: we have his schedule here, during the time this conversation
18: took place, the President was indeed in Latin America to
19: return that Sunday.
20: During later conversations which I can play for you
21: or read you the transcripts - from that, the President talks
22: to Monica and indeed he gets the packet of information.
23: And you've testified that you have a recollection
24: of receiving something from Monica about her job. Tell us
25: what you remember.

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1: A What I remember, I thought, was a list of jobs that
2: were - maybe they were government related, that she had
3: highlighted a job that she wanted and I thought they were all
4: within the White House. I may be wrong. But it's - you
5: don't know what the Plum Book is, it's a list of jobs that
6: they have that are all political appointees, I think, jobs.
7: Schedule C type jobs. And there's a book of them published
8: and I thought she had highlighted the ones she was interested
9: in. That's all I remember.
10: Q You remember talking to Monica about getting a job
11: in New York.
12: A I do.
13: Q And Vernon Jordan was aware of that and Vernon
14: Jordan helped her.
15: A Correct.
16: Q And the President was aware that Monica was looking
17: for a job in New York.
18: A I think so. I'm not positive, not sure.
19: Q Okay. Are you saying you didn't talk to the
20: President about Monica looking for a job in New York?
21: A I don't remember. I probably did. I don't
22: remember.
23: Q Didn't the President ask you to help Monica?
24: A Get a job?
25: Q Yes.

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1: A Yes.
2: Q In New York?
3: A I don't remember. I don't remember.
4: Q After Monica was rejected in terms of coming back
5: to the White House, didn't the President ask you to help
6: Monica with her further job search, wherever it would be?
7: A Probably more like that, whenever I could find to
8: help her. And if I remember correctly, that's when I went to
9: John Podesta.
10: Q Didn't the President suggest that you go to
11: Mr. Podesta?
12: A I don't remember that. John's an old friend of
13: mine.
14: Q I know. You used to work for him many years ago.
15: Didn't the President also suggest Ambassador Richardson, too?
16: That you should contact Ambassador Richardson?
17: A I don't remember him saying that either.
18: Q Well, didn't the President suggest that -
19: go ahead.
20: A The best I remember is that I went to John and told
21: him I needed help finding a job for a friend. He has
22: connections all over and the best I remember, he made the
23: connection with Ambassador Richardson.
24: MR. WISEBERG: Could I ask a question, Bob?
25: MR. BITTMAN: Yes.

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11 BY MR. WISEBERG: Q Mrs. Currie, you mentioned this Plum Book? Is that
12 how you pronounce it, Plum Book?
13 P-U-M.
14 Q Pardon?
15 P-U-M.
16 Q You said you have a memory about that. Did she
17 send that or something like it when she was still thinking
18 she might be able to get a job back in the White House?
19 A I can't remember the timeframe, but if it was a
20 Plum Book that I remember, yes, because most of the jobs are
21 Washington or White House oriented, political appointees
22 types.
23 MR. WISEBERG: Thanks. Sorry for interrupting.
24 Q This package that came to you, did you put it on
25 the President's desk?
26 A I don't remember it.
27 Q Do you remember getting a package on it with a note
28 on it from Monica that related to her search for a job in New
29 York?
30 A I don't. If all this transcript indicates that she
31 sent it and that I did, then I probably did. I probably did
32 receive it and probably put it in his box. Probably not
33 under his door, though.

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1 Q You mean under his desk?
2 A Under his desk?
3 Q Well, she said --
4 A I thought you said under the door.
5 Q She said, "She knows it's coming."
6 A Which line?
7 Q "I put on the note -- I'm sorry. Page 3, lines
8 20 through 24. "She knows it's coming. I put on the note --
9 what I said to her was, you know, if she felt comfortable,
10 maybe she could leave it under his desk in the back."
11 Q Oh, in the back.
12 Q And let him know, you know, when she talks to him
13 that it's there and he could get it on Sunday. That's
14 because he had requested that she send this to him.
15 A Rarely will I leave anything under the desk.
16 Q But you did at some point.
17 A I don't think I did. I think -- if I left it at
18 all, I left it in his box behind my desk and he may have
19 picked it up. I would not leave anything under the desk, any
20 place else.
21 Q You acknowledged that Monica was in a frantic
22 search for a job, right?
23 A Mm-hmm.
24 Q She did not like her job at the Pentagon.
25 A She was unhappy. Yes.

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1 Q She was unhappy with her job at the Pentagon. She
2 never wanted to go there in the first place. And then she
3 wanted to come back to the White House and you helped her try
4 to get a job at the White House. You talked to Marsha Scott.
5 Didn't get back in. Now she's still unhappy and she wants to
6 leave, she wants to go to New York. She talks to the
7 President. The President talks to Vernon Jordan. You talk
8 to Vernon Jordan.
9 The President asks Monica to send him a list of
10 jobs that she would be interested in in New York and she
11 sends it to him through you, as was the normal case. And we
12 hear from the transcript and there's some other corroboration
13 of it, if you'd like to see it, that she put a note attached
14 to it that gave you some form of instructions as to what to
15 do with it and you were to follow up.
16 And, actually, later on, we can show you a fax
17 power sheet that you faxed Monica's resume to Ambassador
18 Richardson. You're nodding your head. Do you remember doing
19 that?
20 A I remember getting something to him. If you say I
21 faxed a resume, then I did that. I don't remember.
22 Q Okay. And do you remember how you got Monica's
23 resume? Would it have been in this packet of information?
24 A I don't remember. I don't. I could have gotten
25 her resume from Marsha, John or she could have sent it to me

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1 directly. I just don't remember.
2 Q Mr. Podesta didn't have it, that's why you had to
3 send it. They actually called Mr. Podesta and he didn't have
4 it one.
5 A He didn't have it?
6 Q But you remember sending -- do you remember calling
7 the United Nations first to ask them for their fax number and
8 then you sent it from Debi Schiff's fax machine? Do you
9 remember that?
10 I remember talking to someone in his office and
11 getting a number to send it. I forgot her name, but, yes.
12 Q Do you remember, then, sending the resume from De
13 Schiff's fax machine? You would use that on occasion?
14 A Mm-hmm. On occasion.
15 Q Okay. So what did the President tell you after he
16 got this package?
17 I don't remember him saying anything. I just don't.
18 know. If he -- if he got the package and then he gave me the
19 resume from the package, that could have happened. I don't
20 know. If Monica sent me the resume through me directly
21 because I'm working on her behalf, I don't know that either.
22 I just don't know how I got it.
23 Q Tell us about your conversations with the President
24 about Monica's job search in New York.
25 A I probably told him that Bill Richardson was making

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1 an offer to her.
2 Q What else?
3 A And that it looked pretty good.
4 BY MR. LERNER:
5 Q Was Monica enthusiastic about the United Nations
6 job offer?
7 A I'm going to say initially, she was because it was
8 in New York and she wanted -- but I think -- I don't know if
9 she met with them, talked with them, found out more about it.
10 she said it was quite similar to the job she had in the
11 Pentagon and she didn't want that.
12 BY MR. BITTMAN:
13 Q The job offer from the United Nations, this
14 conversation you're talking about, occurred -- must have
15 occurred in November because that's when the offer occurred.
16 The phone call to Vernon Jordan occurred in October. So the
17 President talked to Vernon Jordan in October. So what were
18 your discussions about Monica's job search with the President
19 before she was offered the job at the United Nations?
20 A I can't remember the timeframe with Vernon, but up
21 until the time with -- before Ambassador Richardson, Marsha
22 was still somewhat involved still in here, was trying to get
23 something. And then when Marsha fell through and then the
24 election is now coming to be almost over, I thought we were
25 still pursuing something in Washington.

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1 Q This actually is a year after the election.
2 A Oh, see there? What do I know?
3 This was in '97.
4 A '97.
5 Q But this package went over in mid October --
6 Of '97?
7 Q Of '97. You faxed a resume out in late October.
8 The President talks to Vernon Jordan in October. He calls
9 Vernon Jordan talks to the President, he talks to the
10 President after he meets with Monica, we've got the phone
11 records. He talks to you, Vernon Jordan does. The grand
12 jury actually has heard from Vernon Jordan. Did the
13 President tell you to contact Vernon Jordan to help Monica
14 get the job? Get a job in New York?
15 A I don't remember the President telling me to
16 contact Vernon to help get a job, help Monica get a job.
17 Q What did the President tell you about getting help
18 for Monica?
19 A I was doing it on my own. I was dealing with John
20 and Ambassador Richardson, which I thought was moving along
21 fine and that was going to work out fine. And then when she
22 said she didn't want that, then I went to Vernon, who has
23 contacts in New York.
24 Q Were you keeping the President apprised of what you
25 were doing?

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JMAH(2606)

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11: A I may have been telling him that I'm doing this or
 12: the other, but it was not a daily update. Plus, I wasn't
 13: working on a daily.
 14: BY MR. LERNER:
 15: Q But you did tell him occasionally, wouldn't that be
 16: fair, Mrs. Currie?
 17: A Yes, that would be fair.
 18: BY MR. BITTMAN:
 19: Q What did he say?
 20: A Probably fine or okay. I mean, it was no big deal.
 21: Q But he knew that Monica was looking for a job, he
 22: knew that Vernon was helping, he talked to Vernon.
 23: A He knew that for this year we had all been trying
 24: to do something.
 25: BY MR. MISENERBERG:
 26: Q Did he get mad at you when he found out -- when you
 27: updated him and let him know that you had gone to Vernon
 28: Jordan to help Monica find a job? Did the President get mad
 29: and say, "Why did you go to Vernon?" Or "Don't do that?"
 30: A He has never gotten mad at me.
 31: Q Did he not get mad at you -- putting aside whether
 32: he got mad or not, did he say, "See, Betty, you shouldn't
 33: have gone --" or "Mrs. Currie, you shouldn't have gone to
 34: Vernon. I would have preferred that you not do that." Did
 35: he say anything like that?

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11: A I don't remember him saying anything like that.
 12: Q So he did nothing to discourage you from using
 13: Vernon Jordan to help Monica.
 14: A He did nothing to discourage me from using whatever
 15: I could to help her find a job.
 16: BY MR. BITTMAN:
 17: Q How would Mr. Jordan know -- why would Mr. Jordan
 18: think that you were acting on the President's behalf?
 19: A I don't know. People -- and I'm surprised at
 20: Vernon, but people sometimes think if I speak I'm speaking on
 21: behalf of the President when I'm speaking on behalf of
 22: myself. But I didn't give him any reason to think that and I
 23: didn't tell him either, but just in conversation.
 24: Q But if he got that impression, he was wrong?
 25: A To think that the President was --
 26: Q That you were acting at the behest of the
 27: President.
 28: A Then he was wrong. I was acting on behest of me.
 29: Q And what about if Mr. Jordan called the President
 30: and told him that that's what he believed? That you had
 31: called Mr. Jordan and asked him to help Monica get a job in
 32: New York and the President never corrected him either and
 33: said, "No, I didn't even know that."
 34: A Are you saying the President said that?

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11: Q No, I'm asking what if Mr. Jordan said that.
 12: A That I was helping --
 13: Q That he thought you were acting at the President's
 14: behest and that Mr. Jordan would then contact the President
 15: to give the President updates on what he was doing for
 16: Monica, saying, "This is what I'm doing. I'm doing this per
 17: your instructions through Betty."
 18: A Then I don't know. If Vernon would say that, the
 19: President would not make any comment on it. I don't know.
 20: Q Is that fair?
 21: A I don't know if it happened or not.
 22: Q Okay, if he said that, would it be true?
 23: A If Vernon said that?
 24: Q Yes.
 25: A That he talked with the President and the President
 26: didn't --
 27: Q Right.
 28: A I would not see why Vernon would lie. But it would
 29: not be coming from me.
 30: Q Why would the President do things to help Monica
 31: get back into the White House, but not do things to help her
 32: get a job in New York?
 33: A I don't think he did any more or any less. I was
 34: doing all these things, trying to help her get a job.
 35: Keeping him apprised of what I was doing. I don't think he

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11: did any more or any less.
 12: Q And I suppose just like when you were doing things
 13: to help Monica get back into the White House, you knew at
 14: that time that the President approved of what you were doing.
 15: A Yes.
 16: Q Did he approve, then, of what you were doing to
 17: help Monica get a job in New York?
 18: A He did not disapprove, but he never came out and
 19: said not to do it.
 20: Q But you told him what you were doing.
 21: A He was aware, yes.
 22: Q He was aware.
 23: A Mm-hmm.
 24: Q He was aware that you had talked to Mr. Podesta.
 25: A Mm-hmm.
 26: Q He was aware that you had contacted Ambassador
 27: Richardson's office.
 28: A Correct.
 29: Q He was aware that perhaps that you had faxed
 30: Monica's resume up.
 31: A I don't know if he was aware of that.
 32: Q He certainly was aware, you've already testified,
 33: that Ambassador Richardson offered Monica a job.
 34: A Correct.
 35: Q You told him that?

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11: A Mm-hmm.
 12: Q Can you say yes or no for the record?
 13: A Yes.
 14: Q Yes. And what was his response when you told the
 15: President that Ambassador Richardson had offered Monica a
 16: job?
 17: A He probably said good. I mean, it was no
 18: jubilation, but probably just good, that's great, fine.
 19: Q What did the President say -- would you tell the
 20: President what Vernon Jordan was doing on Monica's behalf?
 21: A Probably. But the Ambassador Richardson thing, I
 22: think was -- I thought it was finalized. I got the
 23: impression that was going to be it. And then she turned it
 24: down, so we had to go pursue other -- that's when Vernon got
 25: really involved in it.
 26: BY MR. LERNER:
 27: Q You said "we" had to go. Was that we, you and the
 28: President?
 29: A Me and Monica or me and whomever I was dealing with
 30: trying to do it. The big we. Not him.
 31: Q You were very friendly with Monica, is that right?
 32: A Yes.
 33: Q And the President was friendly with Monica, isn't
 34: that the case?

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11: A JUROR: Could you keep your voice up?
 12: MR. LERNER: Sure.
 13: BY MR. LERNER:
 14: Q The President was also very friendly with Monica.
 15: A I would say yes.
 16: Q So you were both interested in helping her out.
 17: Wouldn't that be a fair statement?
 18: A Correct.
 19: Q And Mr. Jordan is a very powerful man, isn't he?
 20: He's a senior partner in a very prestigious law firm.
 21: A I didn't know he was a senior partner. I just
 22: know -- yes, I didn't know that, though.
 23: Q I mean, he's not someone that one would lightly ask
 24: favors of. Would that be fair to say?
 25: A I don't think that until I started reading the
 26: stuff in the paper. I thought it was okay for me to ask a
 27: friend of mine to do a friend's favor. I didn't know I was
 28: reaching above what people thought were the realms of --
 29: Is it possible, Mrs. Currie, that the President
 30: suggested that Vernon Jordan might be a good person to talk
 31: to about helping Monica?
 32: A No, I would imagine if he had no brothers, he
 33: probably would have said somebody else. Vernon was my
 34: friend. He has friends who have more connections than
 35: Vernon. I'm sure, especially in New York. Vernon is my

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11: friend and Vernon I know has international and national
12: connections.
13: BY MR. BITTMAN:
14: Q Did you ever ask Mr. Jordan to help anyone else out
15: before? To get a job?
16: A I don't think I did. Everybody was getting their
17: jobs.
18: Q Okay. The question goes back to if you'd never
19: done this before and you had been friends with Mr. Jordan for
20: 20 years, right?
21: A Mm-hmm.
22: Q I think 25 years? Yes?
23: A I'm sorry. Yes. I think this thing can even see,
24: if you, you know.
25: Q Then why did you go to him this time?
26: A I felt very comfortable in asking Vernon to do it.
27: I didn't think I was overstepping any grounds or going to any
28: senior vice president - senior vice partner, excuse me. It
29: was something I felt good in doing. And if he couldn't do
30: it, he would have told me that he couldn't and he would have
31: recommended somebody else or told me someone in New York or
32: something.
33: Q Had you ever asked Vernon Jordan for any other
34: favor, let alone asking for help getting someone else a job?
35: A Well, let's see. I don't remember, but I - I

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11: don't remember doing that, but I would not find it unusual
12: that I would.
13: Q But there was no connection between - well, let's
14: get back to the packet of information. You're not saying you
15: didn't receive this.
16: A I'm not saying I did not receive it.
17: Q You think you probably did receive it?
18: A Only because all this stuff indicates that I did
19: and I did get courier packages from Monica. Now, if this was
20: someone of them - but I can't pinpoint it as being a resume and
21: whatever you say was in there, job highlights.
22: Q A wish list of what she wanted?
23: A Mm-hmm.
24: Q And, by the way, the tape also refers to that she
25: sent it under the name Lewis, which is her mother's last
26: name.
27: A Yes.
28: Q Would that be something Monica would do
29: occasionally?
30: A I don't think so. I think it was not often that
31: she would use the name Lewis.
32: Q But occasionally she would.
33: A Well, apparently this time she did so I would say
34: occasionally. I don't remember other occasions, though.
35: Q What about this event that Monica talks about?

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11: This is on page 14, line 2, "Betty came back to get me."
12: Q Page 14, beginning at line 2, "Betty came back to
13: get me. We were in the back office. The three of started to
14: walk out. He's got one arm around Betty, one arm around me.
15: He kisses me on the head. Then we kind of started and then
16: he kind of grabs my arm and he said, "One more thing I have
17: to tell you. And Betty kind of walked out. She walked
18: outside. And then he told me, he said, "One other thing.
19: I talked to Elaine about was trying to get John Riley to
20: give you either a written recommendation or a verbal
21: recommendation so that you feel that you have - he's give
22: you a good recommendation for your work here." And John
23: Riley was, of course, her big boss, right?
24: A Director of Legislative Affairs. Yes.
25: Q Director of Legislative Affairs.
26: A Mm-hmm.
27: Q Tell us about where you guys were walking out of
28: where he had his arm around you, had his arm Monica, and he
29: kisses Monica and says this and you walk away.
30: A I can only guess, which I know you don't like, but
31: she said the back office, so I'm assuming it's the study, and
32: that we walked out of there toward the Oval, toward my
33: office, toward the hallway.
34: Q And was this an event that you remember in your

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11: mind's eye? That is, walking out of there, the President in
12: the middle?
13: A I'm trying to think of the date that this one was.
14: MR. LERNER: The date of the tape is October 15th.
15: but we think it refers to an event on Saturday, October 11th.
16: MR. WISENBERG: It was in the morning.
17: MR. LERNER: And in fact, if you'd like, we can
18: show you some documents.
19: MR. BITTMAN: We have the WAVE records of when
20: Monica was there.
21: THE WITNESS: This is October 11th?
22: MR. BITTMAN: That's right.
23: THE WITNESS: I don't need the records. That's
24: fine.
25: BY MR. BITTMAN:
26: Q Tell us what you remember about it.
27: A I would - do we have a time? What time?
28: MR. BITTMAN: It's in the morning.
29: MR. LERNER: I think it would be -
30: MR. WISENBERG: About 9:30 is when she came in.
31: MR. LERNER: And she was in the Oval Office from
32: about 10:00 to 10:50.
33: BY MR. BITTMAN:
34: Q What do you remember?
35: A No more than what's on here and it would have been

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11: any Saturday that I came in to work that she may have stooped
12: by. Nothing more than that. And if she said that she came
13: out of the back and we walked out, I would not have
14: remembered that other than what she put down.
15: Q Do you remember ever doing that? That is, walking
16: out of the study area with the President and Monica and he
17: has his arm around you and he has his arm around Monica?
18: A That could be -
19: Q So that's not surprising to you.
20: A No.
21: Q That happened at least on one occasion that you
22: remember?
23: A Well, this occasion, I don't find it unusual.
24: Q And what about the President kissing Monica on the
25: forehead?
26: A I don't find that unusual.
27: Q So that probably happened also. Likely happened,
28: do you think?
29: A It probably happened. I mean, she's saying it did,
30: so it probably did.
31: Q And this isn't so improbable that you don't think
32: it could not happen?
33: A I don't think it did not happen.
34: Q And the other things are consistent, too, that
35: Monica really wanted a job and wanted you to help, but also

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11: wanted the President to help and sent things so that you guys
12: could help. That's consistent also with the kind of person
13: Monica is?
14: A That's consistent.
15: Q And it would be consistent that if the President
16: got this package that he would have given perhaps some of the
17: things to you, given it over to you, so to speak, so that you
18: could get other people in the White House and perhaps Vernon
19: Jordan to help you out because you couldn't do it alone?
20: A I don't remember that part. It would not be
21: inconsistent for him to share with me whatever he had to help
22: me out, but I don't remember these documents. I just don't.
23: MR. LERNER: Let me just show you - this is
24: BCC-33. This reflects that Monica Lewinsky entered the White
25: House on October 11th at 9:36 and left at 10:54.
26: (Grand Jury Exhibit No. BCC-33 was
27: marked for identification.)
28: MR. WISENBERG: Speak up, please.
29: MR. LERNER: And this document, BCC-34, reflects
30: the fact that at 9:52 the President entered the Oval Office
31: and at 10:28 he entered the Oval study.
32: (Grand Jury Exhibit No. BCC-34 was
33: marked for identification.)
34: MR. LERNER: In other words, Monica Lewinsky leaves
35: the White House at 10:54 after visiting the President.

BBA

Betty Currie, 5/7/98

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Q And then he also expressed to you that he, the President, thought that she should get a good job in the West Wing.

A Now, the good job I don't -- it was just a job.

Q Okay.

A Of course, every job, some people think, is good in the West Wing. I don't.

Q You don't? Okay. We'll save that for BC20.

A Okay. Deal.

Q But the President did say to you that he thought Monica had gotten a bad rap and that she should get a job in the West Wing.

A Correct.

MR. BITTMAN: Okay.

THE FOREPERSON: Excuse me, Mr. Bitman.

MR. BITTMAN: Should we take a break?

THE FOREPERSON: It's time for a ten-minute break.

MR. BITTMAN: Why don't we take a ten-minute break?

THE WITNESS: Thank you.

MR. BITTMAN: We'll take a ten-minute break.

(Witness excused. Witness recalled.)

MR. BITTMAN: We're back on the record.

It's 10:52.

Madam Forelady, do we have a quorum?

THE FOREPERSON: Yes, we do. And there are no

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to the President?

A No. I thought I had tossed everything.

Q So ordinarily, you would have even thrown this away.

A Correct.

Q Okay. Monica was very fond of you, wasn't she?

A I would like to think so, yes.

Q Do you have any reason to believe you weren't close friends?

A I mean, because you said "I'd like to think so."

Q I have no reason to believe not.

A Let's get back to the letter that Monica sent you that's dated June 24, 1997, Grand Jury Exhibit BC3-6. We were in the middle of the second paragraph, about Marsha Scott's conversation as relayed by Monica with the President, that is, the President talking to Marsha Scott about Monica getting back in the White House. And we already went through the sentence, "He said to me that he had told her, Marsha Scott, 'I had gotten a bum deal and I should get a good job in the West Wing. We went through that sentence."

Q "I was surprised that she," Marsha Scott, "would question his judgment and not just do what he asked of her."

A I think the question where we left off was did Marsha Scott tell you of any conversation she had with the President about

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unauthorized people in the grand jury room.

Mrs. Currie, you are still under oath.

THE WITNESS: Yes. Thank you.

BY MR. BITTMAN:

Q Let's turn back, Mrs. Currie, to Grand Jury Exhibit BC3-6, the letter to you from Ms. Lewinsky dated June 24, 1997. And I think you testified that you believe you did receive this letter or a facsimile of the letter?

A Parts of the letter are familiar to me. I can't -- that's all I can tell you.

Q So maybe you received it?

A Maybe I did.

Q Maybe you didn't.

A Correct.

Q If you received it, you obviously don't have it any more because you would have produced it to the grand jury.

A Correct. Right.

Q If you had received it -- I'm just trying to -- would you normally throw the things away that Monica gave you? That's my question.

A Yes, I did.

Q You did? Why?

A Well, I didn't want them around, number one. And there was nothing worthwhile keeping, if this had come to me.

Q Most of the things Monica sent you -- you did save

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the President's interest in getting Monica back to work at the White House?

A I don't know if she actually told me of any conversations. I don't know if she told me, Monica told me, she told me. I just don't know. I was aware that there were conversations.

Q You were aware that there were conversations between the President and Marsha Scott about Monica coming back to the White House?

A Mm-hmm.

Q You have to say yes or no. I'm sorry.

A Yes. Sorry.

Q Thank you. Because otherwise this big guy --

A Tell me. I've seen him. Yes.

Q What else did you hear about the conversations between the President and Marsha Scott about Monica coming back to the White House?

A Well, I knew that Monica -- excuse me. Too many Ms. Marsha was working on it. She relayed that to the President. And at some point, I relayed to him the concern that Marsha didn't think it would be wise for her to come back. That's about it.

Q Okay. Let's move on. "He has not responded to my note." This is the second or third to last sentence on the second paragraph. "He has not responded to my note, nor has

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some of the cards that Monica sent you. Let's go right into one of those.

A Well, part of the reason I saved the cards, they came in with a group of sympathy cards and they got put in there. Had I not gone through the cards, I would not have thought I kept them. But in an effort to find everything --

MR. BITTMAN: I'm marking an exhibit, BC3-7. This is a card you produced to us.

(Grand Jury Exhibit No. BC3-7 was marked for identification.)

BY MR. BITTMAN:

Q Actually, I thought it was dated around the time of the letter, but it's not, but I'll read it anyway. It's a funny card, it has -- Timmy, that's not what the carrot goes on a snowman. And inside it's dated 17 September '97.

Q "Dear Betty, I wanted to take a moment to let you know how much your friendship has meant to me. You have put up with me through smiles and fits of tears. I hope one day I can repay your kindness. Love, Monica." And you produced this to us in response to a grand jury subpoena. Did you receive a number of cards like that from Monica?

A I received several. I don't think a number, but every so often she would send a card over, yes.

Q So would you save the cards and letters that were strictly personal and then not save the letters that related

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he called me. Do you know what is going on? If so, are you able to share it with me?

A Now, the note, you know that we showed you an earlier letter to the President from Monica that relates to the same topic.

Q Is this the one she's referring to?

A I'm not going to say which one she's referring to.

Q Oh, okay. Fine.

Q But do you know what she's referring to?

A No.

Q You don't know what she's referring to?

A When she says "He has not responded to my note."

Q Right.

A No, I do not know.

Q Okay. Did you know what was going on? You said you were familiar with what was in the letter. And what Grand Jury Exhibit is that, BC3-17?

A Correct.

Q Okay. You said you were familiar with almost all of the contents of that.

A The issues of the letter.

Q The issues.

A Mm-hmm.

Q Okay.

A I'm not familiar with the letter.

In re: Grand Jury Proceedings	Mult Page™	Wednesday, July 22, 1998
<p>Page 21</p> <p>don't want you to check with somebody else.</p> <p>A I'm going to have to -- well, then let me think a minute.</p> <p>Q Okay.</p> <p>A The best that I can remember is that I was requested by Mr. Bitman, et al., not to go back to the office.</p> <p>Q Okay. Was it Mr. Bitman who told you to go stay in a hotel initially?</p> <p>A It was the -- if I use Mr. Bitman, I mean Mr. Bitman and the men.</p> <p>Q Agents.</p> <p>A Yeah.</p> <p>Q Or representatives of the Office of Independent Counsel?</p> <p>A Right, correct. To my recollection, it was Mr. Bitman and them who suggested that I stay at a hotel. They offered to pay.</p> <p>Q Okay. So the Office of Independent Counsel offered to pay for you to stay in a hotel?</p> <p>A Mm-hmm.</p> <p>Q Do you remember telling Mr. Bitman and the agents on January 24, 1998 -- so that would be three days before your scheduled grand jury --</p> <p>A January 24th uh-huh.</p>	<p>Page 23</p> <p>A I don't --</p> <p>Q I'm sorry. You have to just let me finish my --</p> <p>A I'm sorry, I'm sorry.</p> <p>Q It's only for the record.</p> <p>A I -- yeah, I understand.</p> <p>Q You testified that he wanted you to say, "Right," at the end of the first four statements.</p> <p>A I testified that he wanted me to say "Right?"</p> <p>Q That was your impression, that he wanted you to say -- because he would end each of the statements with "Right?," with a question.</p> <p>A I do not remember that he wanted me to say "Right." It would say, "Right?" and I could have said, "Wrong."</p> <p>Q But he would end each of those questions with a "Right?" and you could either say whether it was true or not true.</p> <p>A Correct.</p> <p>Q Did you feel any pressure to agree with your boss?</p> <p>A None.</p> <p>Q Well, for example, you were asked if the Resident said to you, "You were always here when she was here, right?" You knew that you didn't stay with Monica and the resident during the entire time of her visit; isn't that right?</p> <p>A If you repeat the question, "You were always here</p>	
<p>Page 22</p> <p>Q -- that you were afraid if people found out that the President was alone with Monica Lewinsky, it would hurt his reputation?</p> <p>A Repeat it.</p> <p>Q Do you remember telling Mr. Bitman and the agents who were with him on January 24, 1998, that you were afraid that if people found out that the President was alone with Monica Lewinsky, it would hurt his reputation?</p> <p>A I don't remember that.</p> <p>Q Now, back again to the four statements that you testified the President made to you that were presented as statements, did you feel pressured when he told you those statements?</p> <p>A None whatsoever.</p> <p>Q What did you think, or what was going through your mind about what he was doing?</p> <p>A At that time I felt that he was -- I want to use the word shocked or surprised that this was an issue, and he was just talking.</p> <p>Q But you testified that he wanted you to agree with him.</p> <p>A Did I testify that he wanted me to agree?</p> <p>Q Your perception was that he wanted you to agree with him, and that's why he said "Right?" at the end of each --</p>	<p>Page 24</p> <p>when she was here, right?" Whenever she was there, I was here. So the answer to the question, "That's correct."</p> <p>Q Were you there for the entire period that she was here?</p> <p>A I'm almost positive. Well, isn't -- go ahead.</p> <p>A If she comes in -- if she was cleared by me, then I have to get her out. So --</p> <p>Q Well, in fact, Ms. Currie, weren't there times that you came in on weekends for the specific purpose of letting Monica Lewinsky in to see the President, and then you left?</p> <p>A I don't remember any occasions.</p> <p>Q Are you saying that it didn't happen, or you don't remember any occasions?</p> <p>A I want to say it didn't happen, but I don't remember. I can't --</p> <p>Q Do you remember in approximately August of 1997 coming into the White House on a weekend wearing a jogging suit?</p> <p>A Me?</p> <p>Q Yes.</p> <p>A I don't.</p> <p>Q That would be unusual for you, wouldn't it, to come to the White House wearing a jogging suit?</p> <p>A Yeah.</p> <p>Q Do you remember a time, however, that you were</p>	

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<p style="text-align: right;">Page 61</p> <p>know, "Just calm down. Calm down." And I think that's when she would call and her calls just didn't go through.</p> <p>A JUROR: So that was what you did.</p> <p>THE WITNESS: Yes.</p> <p>A JUROR: What did she yell at you about? What did she yell at you about?</p> <p>THE WITNESS: Mostly, as I remember it, putting her calls through or not letting him know she called or accusing me of not letting him know she called.</p> <p>BY MS. IMMERGUT:</p> <p>Q Why didn't you tell her not to call you any more?</p> <p>A I'm trying to think if I did that. I guess I didn't think it was proper just to tell someone not to call. I have other crank calls that people call all the time.</p> <p>Q Did you have some reluctance to tell her not to call because of her relationship with the President?</p> <p>A No, that wasn't it.</p> <p>BY MR. ENMICK:</p> <p>Q Did the frequency of her calls or the sometimes temper tantrum nature of her calls ever threaten to interfere with your work? Lots of calls a day or personally upsetting calls?</p> <p>A I don't think it interfered with my work and I don't think the frequency was that many. It was one that was too much, but it wasn't that often, just that one is enough.</p>	<p style="text-align: right;">Pa</p> <p>THE WITNESS: The question is any time she drops in, would she not be allowed to go in? Sometimes she drops in just to see me.</p> <p>A JUROR: So she didn't come to the see the President every time that she --</p> <p>THE WITNESS: No.</p> <p>A JUROR: Just to follow up on that --</p> <p>MS. IMMERGUT: I'm sorry. You know, do you have a question?</p> <p>A JUROR: I'm sorry.</p> <p>MS. IMMERGUT: Okay. Let's just -- back in the corner because I promised.</p> <p>A JUROR: Ms. Currie, you have to tell us your story from answering our questions.</p> <p>THE WITNESS: Correct.</p> <p>A JUROR: And I've noticed that some of the words that we've used you wouldn't use, like when they're saying that you were setting up or you were the facilitator, or you're the one who set up these appointments and these meetings. Can you tell me your story in your words?</p> <p>If you had to tell someone, looking in hindsight about this situation, can you just tell us -- in looking back at this situation, can you sum it up in your words without asking you questions that, you know, we're tending to say words that you might not have said yourself?</p>	
<p style="text-align: right;">Page 62</p> <p>Q It was not so much, for example, that you would complain to the President about it? Or would you complain?</p> <p>A I don't remember complaining to him. I don't know. I don't remember.</p> <p>Q Would you complain to Nancy Henreich?</p> <p>A Probably not.</p> <p>Q And the reason for that is?</p> <p>A I didn't really discuss Monica with Nancy.</p> <p>Q And the reason for that is?</p> <p>A I don't think Monica liked Nancy or vice versa or they liked each other, so it was keeping as much peace as possible.</p> <p>A JUROR: So, Mrs. Currie, when you're not there, did Nancy put through any calls from Monica to the President? Or how would Monica communicate or get her calls through to the President when you were not there?</p> <p>THE WITNESS: I don't know. I don't know if Nancy did or not. I don't know.</p> <p>MR. LERNER: That grand juror had a question.</p> <p>MS. IMMERGUT: Why don't we go there, there, there.</p> <p>A JUROR: Yes. I'm just going back to the times when she used to drop in to the office --</p> <p>THE WITNESS: Drop in?</p> <p>A JUROR: Uh-huh. Any time that she dropped in, would she not be allowed to go in to the President?</p>	<p style="text-align: right;">Pa</p> <p>If you had to try to --</p> <p>THE WITNESS: I know. I'm trying to -- go ahead.</p> <p>A JUROR: And I want you to just, you know, take your time and think about it. If you had to try to tell someone, if I just met you and you had to try to tell someone what has happened, a summarized portion of what really happened, even looking back in hindsight --</p> <p>THE WITNESS: Do you mean the entire -- what portion are we talking about?</p> <p>A JUROR: Well, just try to sum up the relationship, when you first met her, how it was going at first, when it changed, dah, dah, dah. Just try to sum it up in your words. Even in hindsight, I want to know what you're thinking in hindsight now that it's past.</p> <p>Did you think you could have did something different? Did you think you could have stopped it?</p> <p>You know -- I want to know if you had to summarize it --</p> <p>THE WITNESS: I'm going to try to, but this is -- you said take my time. I don't know if we have that much time, but I'll do the best I can.</p> <p>A JUROR: Okay. But, you know, I just noticed that our words are not your words.</p> <p>THE WITNESS: That's true.</p> <p>A JUROR: Well, then they're saying you facilitated these meetings, you set up these meetings. They even said</p>	

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<p>Page 65</p> <p>As were even present at some of them. I want to hear your side.</p> <p>THE WITNESS: I've been present at some of them?</p> <p>A JUROR: Yes. I mean, that you've been present in the area when things were going on. I want to hear your side. What is your story? Without me asking you a question just to answer. If you had to tell someone this story.</p> <p>THE WITNESS: This is difficult and I'll do the best I can and I'll tell what I can. I don't know -- as you know, I met Monica when she was an intern and she -- I met her -- I think I initially met her at a social gathering. I can't remember, but people tell me I did and there was a lot of people that I wouldn't have known her.</p> <p>And I met her when she became -- during the government shutdown. She worked closer to me. She was across the street at the Old EOB initially, so I wouldn't have known her, but she came down to our building, the West Wing.</p> <p>I met her and I don't know, we became what we call friends using my words as friends or associates or acquaintances. But she would come quite a bit. She was in the West Wing, in the Chief of Staff's office and then shortly after that, she went to the East Wing which is -- if is is a building, we're on one side and they're on the other. And she would in her position as assistant at the</p>	<p>Page 67</p> <p>Now, I don't know when she started calling the President as opposed to -- I just can't remember when that all happened. And I didn't -- I didn't think much about it. Lots of people call, lots of young people call, lots of young women call. Lots of calls. So she would talk to him and have conversations. I didn't think much about it.</p> <p>I still think and thought that they were friends. She would send gifts. A lot of people do. I didn't think much about that either.</p> <p>She would -- when she got angry, I was a little bit concerned, but, you know, I hear people burst into temper tantrums all the time, too, and I just take it with a grain of salt and let them finish and more people than not after they burst out they sort of get back together. That's true with, I think, most of us, too.</p> <p>In hindsight, I don't know if I could have changed anything. If I could have not put any calls through, not accepted any gifts, my job was to take gifts for the President, put calls through and I do that.</p> <p>Have I answered your questions?</p> <p>A JUROR: Tell me about the visits. You know, so many visits where you were checking her in. It seems like you were checking her in for the President. Tell me about those visits. Would she call you? Who would she call?</p>
<p>Page 66</p> <p>Office of Congressional Affairs or Legislative Affairs would bring papers back and forth to the President.</p> <p>Apparently, those were on days that I was not there. I don't remember seeing that. She would come sometimes but a lot of times I was told that this happened on Saturdays.</p> <p>How we became friends? I just -- it just happened. I mean, she was a young girl, I thought very nice, very personable. And since we were co-workers, we would share co-worker stories, I guess, or something -- I think.</p> <p>And I think we -- I'm trying to think, which incident, who got sick or which death, she became very close to me during that time. I don't know which one it was. Too many. And she was always there. I mean --</p> <p>A JUROR: If it's getting too hard, you can take a break.</p> <p>THE WITNESS: You said take my time. She would come by the house. She would send things. She would bring things, no matter what. And I don't know if that's when it became more of a friendship then or not, I don't know, but she was a good kid.</p> <p>Now, then she went to the Pentagon and I don't -- the timing of this I can't get it right because everything is like one whole month to me, it's more than two years going by, so she would call.</p>	<p>Page 68</p> <p>THE WITNESS: I read in the paper there were so many visits. At the time, I didn't think there were so many. You know, she called and wanted to come see him or he -- something -- "Come see me," and he'd be there. A lot of the times, she was coming to see me. And he's there. Most of the time I'm there, he's there.</p> <p>It happens with a lot of people. They're lucky enough, they called it luck, to come see me and he stops by and they're just forever grateful to have a chance to meet the President. This happens a lot of times. So she would come see me and he would be there a lot, too. They would talk. I would talk. We would talk.</p> <p>MS. IMMERGUT: Okay. Any --</p> <p>A JUROR: So there were times when she came to the office and she visited with you?</p> <p>THE WITNESS: Correct.</p> <p>A JUROR: And she did not go in to see the President?</p> <p>THE WITNESS: Correct.</p> <p>A JUROR: So the amount of time that she came, what percentage would you say she went in to the President and the times that she did not?</p> <p>Did she go in more times or did she go in less or just sort of evenly?</p> <p>THE WITNESS: I can't guess and I have to -- I</p>

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<p style="text-align: right;">Page 169</p> <p>believe that you have no idea why you talked to Vernon Jordan that day. I don't know how you can remember things in your job if you can't remember this. Can you please just try to think about it?</p> <p>A Karin -- excuse me, Mrs. H --</p> <p>Q It's Immergut. I don't mean to -- sort of say disrespect --</p> <p>A And I understand. I don't either. But I don't. If I did, I would tell you. I would tell anyone that asked me.</p> <p>Q Okay. Let's go to the next exhibit, which is BCS-9, and that is Table P. The date is January 21, 1998.</p> <p>A And this is Wednesday?</p> <p>A JUROR: Yes, it is Wednesday.</p> <p>BY MS. IMMERGUT:</p> <p>Q There's a call from the President at 1:16 a.m. that lasts 20 minutes. And what's that call about?</p> <p>A That was the call that he called to tell me about an article is going to be in the Washington Post.</p> <p>Q Okay. What did he say about it?</p> <p>A The best I remember is that it was going to be a negative article and they were going to have all this stuff in there. It was going to just have everything in it.</p> <p>Q Everything meaning what?</p> <p>A I guess everything about -- and I can't remember</p>	<p style="text-align: right;">Page 171</p> <p>A JUROR: During this conversation with the President, did you discuss the fact that you had a box of Monica's belongings under your bed?</p> <p>THE WITNESS: I'm sure not.</p> <p>BY MS. IMMERGUT:</p> <p>Q Why didn't you tell him that?</p> <p>A I didn't see any reason to. Why didn't I? Is that what you asked?</p> <p>Q Mm-hmm.</p> <p>A I didn't see any reason to tell him.</p> <p>Q Well, what are you really thinking at this point?</p> <p>Here you've had Isikoff has called you, Monica has given you a box of gifts from the President, the President tells you he's been asked questions about Monica at a deposition, you've been responsible for at least helping -- taking the gifts and helping the President earlier continue a friendship, if you will, with Monica. I mean, what's going through your head at this point?</p> <p>A I think I said, "Oh, gosh. What does this mean?"</p> <p>Q Were you concerned at that point that there was the possibility -- well, did you read the news reports that were coming out that week, of the President's deposition and the new story breaking?</p> <p>A I don't think I knew about the Washington Post story until he told me</p>	
<p style="text-align: right;">Page 170</p> <p>the article now, today, what it was, but I guess Drudge's report and everything.</p> <p>BY MR. EMMICK:</p> <p>Q Twenty minutes is a long time.</p> <p>A I told others that -- maybe it seems to you it was, but I was on the other end. At 1:16, I was also in deep slumber and "Uh-huh, yeah, uh-huh, uh-huh."</p> <p>BY MS. IMMERGUT:</p> <p>Q Now, you understood, didn't you, that the -- at least the allegations about Monica Lewinsky were potentially incredibly damaging to the President, didn't you?</p> <p>A I understood that --</p> <p>Q The allegations about Monica Lewinsky were potentially incredibly damaging to your boss, didn't you?</p> <p>A I thought they were just allegations.</p> <p>Q Did you nevertheless feel that if that were reported in the press that that would be very damaging or this was a very important event? Did you recognize that?</p> <p>A I recognized that it was a very damaging --</p> <p>Q So you didn't sleep through the call with the President, did you?</p> <p>A I didn't fall asleep, no, but I was very sleepy and very -- "Uh-huh, uh-huh."</p> <p>Q You were concerned about -- I'm sorry, go ahead.</p>	<p style="text-align: right;">Page 172</p> <p>Q Okay.</p> <p>A The deposition, there wasn't much to read about it.</p> <p>Q Well, you heard about it -- as soon as the new story broke, you were aware that there were allegations of an impeachment against the President, weren't you?</p> <p>A I don't think that word came up in my surroundings.</p> <p>Q The word impeachment never came up in the White House?</p> <p>A At this particular time.</p> <p>Q Well, when did it come up?</p> <p>A I think we probably read about it before we even saw it or talked about it.</p> <p>Q Okay. When did it come up for you?</p> <p>A I'm going to say later, much later after this.</p> <p>Q Much later -- a week?</p> <p>A I don't know. I don't remember. It was just -- it was just not discussed that much.</p> <p>Q I mean, wasn't the potential damage to the White House and the presidency something that would make you remember these events better?</p> <p>A I am trying to remember. I really am. I don't know what to do. I'm taking this St. John's Wort trying to help me remember, but it's not.</p> <p>Q So your answer is no?</p> <p>A To the question if I remember impeachment?</p>	

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<p>Page 173</p> <p>Q Well, and you don't remember any of the calls even with Vernon or as to why that was going on.</p> <p>A (Shaking head negatively.)</p> <p>Q Did you ever have a discussion with Monica, and forgive me if I've asked you this, about the substance of the President's deposition?</p> <p>A Discussion with Monica about the substance of the President's deposition?</p> <p>Q What he had told you about it.</p> <p>A No.</p> <p>BY MR. EMMICK:</p> <p>Q I have a question. You've indicated that you were trying to get a hold of Monica during the couple of days when you had so many pages to her.</p> <p>A Correct. Uh-huh.</p> <p>Q To make sure that she knew that her name came up in the deposition. The deposition was a day-long deposition, lots of people's names had come up. Did you take any steps to notify anybody else that their name had come up in the deposition?</p> <p>A I was unaware of any other name coming up.</p> <p>Q Do you know whether the President took any steps to notify all the other people whose names came up in the deposition that their name had come up in the deposition?</p> <p>A I don't know. I don't know.</p>		<p>Page 175</p> <p>A But - I would never have put that on a page to anybody.</p> <p>Q Even somebody that you -</p> <p>A I wouldn't have put it in to you. I mean, I was taught that page records are - the world can see them and that I didn't think it was - the word deposition on a page - the paper, it's like a cell phone, anybody -</p> <p>Q Is that why you used the name K.?</p> <p>A Yes.</p> <p>A JUROR: Mrs. Currie, I wanted to come back for a second to the box of gifts and how they came to be in your possession. As I recall your earlier testimony during the other days, you testified that the President asked you to telephone Monica. Is that correct?</p> <p>THE WITNESS: Pardon? The President asked me to telephone Monica?</p> <p>A JUROR: Is that correct?</p> <p>THE WITNESS: About?</p> <p>A JUROR: About the box of gifts or about a box.</p> <p>I'm trying to recall and understand exactly how that box of gifts came to be in your possession.</p> <p>THE WITNESS: I do not recall the President asking me to call about a box of gifts.</p> <p>A JUROR: How did you come to be in possession of the box of gifts, then?</p>
<p>Page 174</p> <p>Q Do you know of any efforts to notify anybody that their name had come up?</p> <p>A Not through me.</p> <p>A JUROR: Mrs. Currie, when you found out that Monica's name came up in the deposition, did that raise a new set of concerns for you about having the gifts in your possession?</p> <p>THE WITNESS: No.</p> <p>A JUROR: You didn't think that Monica may be playing a bigger role in this thing?</p> <p>THE WITNESS: At that point, I did not.</p> <p>MR. EMMICK: Can I just follow up with the one -</p> <p>MS. IMMERGUT: Yes. Go ahead. Okay. Go ahead, Mike.</p> <p>MR. EMMICK: It's just - it ties so closely to the questions that I was asking.</p> <p>BY MR. EMMICK:</p> <p>Q I was asking a question about your calling to make sure that her name came up and that that was the purpose of so many, many, many pages to her. The pager is one that I can put a message on. Why didn't you just put on the page, "Your name came up in the deposition"? Wouldn't I have done that?</p> <p>A It would have.</p> <p>Q Yes?</p>		<p>Page 176</p> <p>THE WITNESS: The best I remember is Monica calls me and asks me if she can give me some gifts, if I'd pick up some gifts from her.</p> <p>A JUROR: And did she tell you what kind of gifts they were?</p> <p>THE WITNESS: She did not.</p> <p>A JUROR: She didn't tell you that they were gifts from the President?</p> <p>THE WITNESS: She did not.</p> <p>A JUROR: Did she tell you why she wanted you to pick them up?</p> <p>THE WITNESS: She wanted me to hold them.</p> <p>A JUROR: And did you ever discuss with the President that you had a box of gifts from Monica?</p> <p>THE WITNESS: I don't remember talking about the gifts at all.</p> <p>A JUROR: Did you discuss with him that you picked anything up from Monica?</p> <p>THE WITNESS: I don't -</p> <p>A JUROR: That Monica had given you anything?</p> <p>THE WITNESS: I don't remember talking to him at all about gifts.</p> <p>A JUROR: Well, never mind - put aside gifts. About any box of any material that Monica had given you to hold?</p>

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THE WITNESS: No.

A JUROR: Did you have any understanding of why Monica gave you this box?

THE WITNESS: She said to hold them. I don't know if she was moving and wanted me to -- it would be safer with me. I didn't know what they were. She just asked me to hold her gifts.

A JUROR: Did you have any impression yourself that these might have been gifts from the President? Did you have any suspicion of that?

THE WITNESS: I don't think I thought much more about it. I picked them up, took them home, put them under the bed and left them there.

MS. IMMERGUT: Could I interrupt there for one second?

BY MS. IMMERGUT:

Q You previously testified you understood that they were gifts from the President.

A Then if I testified to that, then I stand corrected. If that's what I said.

Q Does that refresh your recollection about the truth? You testified that you understood that they were gifts from the President.

A That as today, as of today, I don't remember. If I said that, I'm sorry.

this after a meeting with the President? Had it been after a telephone call? Just out of the blue?

THE WITNESS: I wouldn't say out of the blue. She called quite a bit, so I just don't know if it was out of the blue or just in conversation, we were talking. I don't remember.

A JUROR: Had she seen the President recently or spoken with the President recently?

THE WITNESS: I can't verify -- I don't know if she did or not with a phone call.

A JUROR: Mrs. Currie, do you know when you got that box?

THE WITNESS: When I --

A JUROR: When you received that box or picked it up or whatever. You have no idea?

THE WITNESS: I'm sure someone's records indicate it, but I just know I went by her house and got it. Drove by.

A JUROR: Winter? Summer? Spring, summer, winter, fall?

THE WITNESS: I would say -- when does winter start? Fall maybe. I -- I -- at this point, I just don't remember when I got it.

A JUROR: The only reason I ask is because you had mentioned that you think it was possibly in relation to her

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MS. IMMERGUT: I'm sorry, I apologize. Go ahead.

MR. SUSANIN: Can I interrupt with a follow-up related to your questioning?

BY MR. SUSANIN:

Q Mrs. Currie, a minute ago you said something about perhaps if Monica was moving the box of gifts contained important things. Did Monica tell you that or is that something you're just throwing out today?

A I'm just throwing it out. She didn't say anything.

MR. SUSANIN: Thank you.

A JUROR: Mrs. Currie, if you didn't know what the contents of the box that you had was, when did you ascertain what the contents of the box was?

THE WITNESS: After I received the subpoena and I had to bring in everything, I took the box to my lawyer's office and they opened it right there.

BY MS. IMMERGUT:

Q But why did you think the box was responsive to a subpoena?

A The subpoena to my recollection said any gifts you had received from Monica or any articles or items or something. That's what the subpoena said. And I asked my lawyer would that be included, he said yes and I brought it in.

A JUROR: Did Monica call you out of the blue? Was

move to New York?

THE WITNESS: Uh-huh.

A JUROR: So when did you find out she was moving to New York? Maybe that would --

THE WITNESS: She had talked about moving after -- when she was doing the job search, so I'm going to say November, December.

A JUROR: Of '97.

THE WITNESS: Correct.

A JUROR: Why of all the people and acquaintances of Monica's, why do you feel as though she would entrust these valuables to you and no one else and not secure some sort of storage or vault or what have you for these articles?

A Now, that I don't know. She may have asked somebody else. I don't know.

BY MR. SUSANIN:

Q Mrs. Currie, in light of your testimony that sometimes you would avoid Monica's phone calls and at times she had gotten to be a nuisance, and you might not have used that exact word, but I think you get the gist of what I'm saying, why did you agree to take the box?

A She had been very good to me and it was -- I guess reciprocating a friendship.

A JUROR: Once you had this box and the Washington

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<p style="text-align: right;">Page 181</p> <p>Post article and different things started happening, were you afraid of this box and what it's contents might be?</p> <p>THE WITNESS: I think I just put it under the bed and sort of forgot about it. I was not -- no, I was not concerned about the contents.</p> <p>A JUROR: Do you recall when you remembered that it was there?</p> <p>THE WITNESS: I'm going to say after the subpoena because I had to go through the house and get stuff that Monica had given me and I'm still finding stuff I had forgotten about.</p> <p>A JUROR: Mrs. Currie, when you were here on May 14, at least my notes of your testimony then indicate that you received the box of gifts from Monica after Monica's visit with the President on December 28th. Do you recall that testimony?</p> <p>THE WITNESS: I do not. December 28th? I do not --</p> <p>A JUROR: I'm sorry, my notes continue to say that Monica asked you if you would hold the gifts for her because people were asking questions about them. Do you recall testifying to that?</p> <p>THE WITNESS: I remember her saying people were asking questions.</p> <p>A JUROR: About the gifts?</p>	<p style="text-align: right;">Page 183</p> <p>BY MR. EMMICK:</p> <p>Q And if there were even different testimony that was further ago in time, should we believe that testimony more than the May 14th testimony because it was closer in time to the events?</p> <p>A I hope there will be no inconsistency, they would all give correctly.</p> <p>MR. EMMICK: Those hopes would not be realized.</p> <p>THE WITNESS: They weren't realized?</p> <p>MS. IMMERGUT: Assuming there are inconsistencies --</p> <p>THE WITNESS: Oh.</p> <p>BY MS. IMMERGUT:</p> <p>Q Which one do we believe? Earlier to the event?</p> <p>A Well, I'm telling you as I remember today, what things have happened.</p> <p>Q So just to answer Mr. Emmick's question, is it fair to say that closer to the event your recollection was the most vivid?</p> <p>A I would say closer to the event my recollection would be better.</p> <p>MS. IMMERGUT: Any other questions?</p> <p>(No response.)</p> <p>MS. IMMERGUT: Do you want to deliberate about any questions or can I excuse the witness?</p>
<p style="text-align: right;">Page 182</p> <p>THE WITNESS: Uh-huh.</p> <p>A JUROR: Do you recall anything else of your discussion with Monica about the gifts?</p> <p>THE WITNESS: Do I recall anything else of my --</p> <p>A JUROR: Of your discussion with Monica about the gifts.</p> <p>THE WITNESS: I don't.</p> <p>A JUROR: Your testimony on May 14th seems to be a lot more detailed than your testimony today.</p> <p>THE WITNESS: I remembered more back then, I think, than I do today.</p> <p>A JUROR: So you think that you've just with the passage of time remember less?</p> <p>THE WITNESS: Unfortunately, that's true. And I had a long break from here and it's just -- I had a welcome break from here and I sort of took it out of my mind.</p> <p>A JUROR: Mrs. Currie, which testimony should we be believing?</p> <p>THE WITNESS: If I were you, I would believe the 4th.</p> <p>A JUROR: So that would be the more accurate?</p> <p>THE WITNESS: Correct.</p> <p>A JUROR: Because it was closer to the incident or whatever?</p> <p>THE WITNESS: Yes. Mm-hmm.</p>	<p style="text-align: right;">Page 184</p> <p>THE FOREPERSON: You can excuse the witness.</p> <p>THE WITNESS: Can I please say something to the jurors? Is this my last time here?</p> <p>MS. IMMERGUT: We can never quite guarantee when it's someone's last time.</p> <p>MR. EMMICK: We plan no other appearances.</p> <p>THE WITNESS: Okay. I want to thank you all and I have tried my hardest to do the best I can to tell the truth and nothing but the truth, so help me God. And I want to thank you all for everything. You've been very, very good.</p> <p>THE FOREPERSON: Thank you, Mrs. Currie.</p> <p>MS. IMMERGUT: Thank you.</p> <p>(The witness was excused.)</p> <p>(Whereupon, at 5:01 p.m., the taking of testimony in the presence of a full quorum of the Grand Jury was concluded.)</p> <p style="text-align: center;">*****</p>

IN THE SENATE OF THE UNITED STATES
Sitting as a Court of Impeachment

In Re)
)
Impeachment of)
President William Jefferson Clinton)

**Replication of the House of Representatives
to the Answer of President William Jefferson Clinton
to the Articles of Impeachment**

The House of Representatives, through its Managers and counsel, replies to the Answer of President William Jefferson Clinton to the Articles of Impeachment ("Answer"), as follows:

PREAMBLE

The House of Representatives denies each and every material allegation in the Preamble to the Answer, including the sections entitled "The Charges in the Articles Do Not Constitute High Crimes or Misdemeanors" and "The President Did Not Commit Perjury or Obstruct Justice." With respect to the allegations in the Preamble, the House of Representatives further states that each and every allegation in Articles I and II is true and that Articles I and II properly state impeachable offenses, are not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

ARTICLE I

The House of Representatives denies each and every allegation in the Answer to Article I that denies the acts, knowledge, intent, or wrongful conduct charged against President William Jefferson Clinton. With respect to the allegations in the Answer to Article I, the House of Representatives further states that each and every allegation in Article I is true and that Article I

properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE I

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that the offense stated in Article I warrants the conviction, removal from office, and disqualification from holding further office of President William Jefferson Clinton.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE I

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article I is not unconstitutionally vague, and it provides President William Jefferson Clinton adequate notice of the offense charged against him.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE I

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article I does not charge multiple offenses in one article.

ARTICLE II

The House of Representatives denies each and every allegation in the Answer to Article II that denies the acts, knowledge, intent, or wrongful conduct charged against President William Jefferson Clinton. With respect to the allegations in the Answer to Article II, the House of Representatives further states that each and every allegation in Article II is true and that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE II

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that the offense stated in Article II warrants the conviction, removal from office, and disqualification from holding further office of President William Jefferson Clinton.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE II

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article II is not unconstitutionally vague, and it provides President William Jefferson Clinton adequate notice of the offense charged against him.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE II

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article II does not charge multiple offenses in one article.


CONCLUSION OF THE HOUSE OF REPRESENTATIVES

The House of Representatives further states that it denies each and every material allegation of the Answer not specifically admitted in this Replication. By providing this Replication to the Answer, the House of Representatives waives none of its rights in this proceeding. Wherefore, the House of Representatives states that both of the Articles of Impeachment warrant the conviction, removal from office, and disqualification from holding further office of President William Jefferson Clinton. Both of the Articles should be considered and adjudicated by the Senate.

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Respectfully submitted,

The United States
House of Representatives

A handwritten signature in black ink, reading "Henry Hyde", written over a horizontal line.

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Chief Investigative Counsel

IN THE SENATE OF THE UNITED STATES
Sitting as a Court of Impeachment

In Re)
)
Impeachment of)
President William Jefferson Clinton)

**Reply of the United States House of Representatives
to the Trial Memorandum of President
William Jefferson Clinton**

I. Introduction

The President's Trial Memorandum contains numerous factual inaccuracies and misstatements of the governing law and the Senate's precedents. These errors have largely been addressed in the Trial Memorandum of the House of Representatives filed with the Senate on January 11, 1999, and given the 24-hour period to file this reply, the House cannot possibly address them all here. The House of Representatives will address them further in its oral presentation to the Senate, and it reserves the right to address these matters further in the briefing of any relevant motions. However, President Clinton has raised some new issues in his Trial Memorandum, and the House of Representatives hereby replies to those issues.

II. Facts

The President's Trial Memorandum outlines what he claims are facts showing that he did not commit perjury before the grand jury and did not obstruct justice. The factual issues President Clinton raises are addressed in detail in the Trial Memorandum of the House.

A complete and impartial review of the evidence reveals that the President did in fact commit perjury before the grand jury and that he obstructed justice during the *Jones* litigation

and the grand jury investigation as alleged in the articles of impeachment passed by the House of Representatives. The House believes a review of the complete record, including the full grand jury and deposition testimony of the key witnesses in this case, will establish that.

The evidence which President Clinton claims demonstrates that he did not commit the offenses outlined in the Articles of Impeachment are cited in Sections IV and V of his Memorandum. Regarding Article I, President Clinton maintains that his testimony before the grand jury was entirely truthful. At the outset of his argument, he states that he told the truth about the nature and details of his relationship with Ms. Lewinsky, and he insists that any false impressions that his deposition testimony might have created were remedied by his admission of "improper intimate contact" with Ms. Lewinsky. However, his subsequent testimony demonstrates that this admission is narrowly tailored to mean that Ms. Lewinsky had "sexual relations" with him, but he did not have "sexual relations" with her, as he understood the term to be defined. In other words, he admitted only what he knew could be conclusively established through scientific tests. He denied what the testimony of Ms. Lewinsky, the testimony of a number of her confidantes, and common sense proves: that while she engaged in sexual relations with him, he engaged in sexual relations with her, regardless of how President Clinton attempts to redefine the term.

Following this pattern, President Clinton discounts substantial evidence as well as common sense when he maintains that he testified truthfully in the grand jury about, among other things, his prior deposition testimony, his attorney's statements to Judge Wright during his deposition, and his intent in providing a series of false statements to his secretary after his deposition. Again, a complete review of the record and witness testimony reveals that President

Clinton committed perjury numerous times in his grand jury testimony.

In regard to Article II, President Clinton extracts numerous items of evidence from the record and analyzes them in isolation in an effort to provide innocent explanations for the substantial amount of circumstantial evidence proving his guilt. Yet when the record is viewed in its entirety, including the portions of President Clinton's deposition testimony concerning Ms. Lewinsky and his grand jury testimony, it demonstrates that President Clinton took a number of actions designed to prevent Paula Jones's attorneys, the federal district court, and a federal grand jury from learning the truth. These actions are described in detail in the Trial Memorandum of the House.

To the extent that President Clinton's Trial Memorandum raises issues of credibility, those issues are best resolved by live testimony subject to cross-examination. The Senate, weighing the evidence in its entirety, will make an independent assessment of the facts as they are presented, and a detailed, point-by-point argument on these matters is best resolved on the Senate floor. The House is confident that a thorough factual analysis will not only refute President Clinton's contentions, but will prove the very serious charges contained in the articles.

III. The Articles Properly State Removable Offenses.

A. The Offenses Alleged are High Crimes and Misdemeanors.

1. The Senate Has Never Exercised Its Power to Dismiss an Article of Impeachment Except When the Official Impeached Has Resigned.

The House acknowledges that the Senate has the power to dismiss an article of impeachment on the ground that it does not state a removable offense. Beyond that, however, President Clinton completely ignores the Senate's precedents concerning the use of that power.

In the fifteen cases in which the House has forwarded articles of impeachment to the Senate, the Senate has *never* granted a dispositive motion to preclude a trial on the articles with one exception. In the 1926 case of Judge George English, the Senate granted a motion to adjourn after Judge English resigned from office making a trial moot on the issue of removal. *See* Impeachment of George W. English, U.S. District Judge, Eastern District of Illinois, 68 Cong. Rec. 347-48 (1926). The Senate also granted a motion to adjourn in the 1868 trial of President Andrew Johnson, but only after a full trial and votes to acquit on three articles. III Cannon's Precedents of the House of Representatives § 2443.

In addition, the Senate has *never* granted a motion to dismiss or strike an article of impeachment. However, in the 1936 case of Judge Halsted Ritter, the House managers themselves moved to strike two counts of a multi-count article to simplify the trial, and the motion was granted. 80 Cong. Rec. 4898-99 (April 3, 1936). However, the remainder of the article was fully considered, and Judge Ritter was convicted on that article. The House managers in the 1986 Judge Harry Claiborne case made the only motion for summary judgment in the history of impeachment. *Hearings of the Senate Impeachment Trial Committee (Judge Harry Claiborne)*, 99th Cong., 2d Sess. 145 (1986). They did so on the basis that Judge Claiborne had already been convicted of the charges in a criminal trial. *Id.* The Senate postponed a decision on the motion and never ruled on it, but it ultimately convicted Judge Claiborne. In short, the Senate precedents firmly establish that the Senate has always fulfilled its responsibility to give a full and fair hearing to articles of impeachment voted by the House of Representatives.

2. The Constitutional Text Sets One Clear Standard for Removal.**a. There is Only One Impeachment Standard.**

The Constitution sets one clear standard for impeachment, conviction, and removal from office: the commission of "Treason, Bribery, or other high Crimes and Misdemeanors." U.S. Const. art. II, § 4. The Senate has repeatedly determined that perjury is a high crime and misdemeanor. Simple logic dictates that obstruction of justice which has the same effect as perjury and bribery of witnesses must also be a high crime and misdemeanor. Endless repetition of the claim that this standard is a high one does not change the standard.

President Clinton claims that to remove him on these articles would permanently disfigure and diminish the Presidency and mangle the system of checks and balances. President's Trial Memorandum at 18. Quite the contrary, however, it is President Clinton's behavior as set forth in the articles that has had these effects. Essentially, President Clinton argues that the Presidency and the system of checks and balances can only be saved if we allow the President to commit felonies with impunity. To state that proposition is to refute it. Convicting him and thereby reaffirming that criminal behavior that strikes at heart of the justice system will result in removal will serve to strengthen the Presidency, not weaken it.

b. Impeachment and Removal are Appropriate for High Crimes and Misdemeanors Regardless of Whether They are Offenses Against the System of Government.

President Clinton argues that impeachment may only be used to redress wrongful public misconduct. The point is academic. Perjury and obstruction of justice as set forth in the articles are, by definition, public misconduct. *See generally* House Trial Memorandum at 107-12. Indeed, it is precisely their public nature that makes them offenses -- acts that are not crimes

when committed outside the judicial realm become crimes when they enter that realm. Lying to one's spouse about an extramarital affair, although immoral, is not a crime. Telling the same lie under oath in a judicial proceeding is a crime. Hiding gifts given to an adulterous lover to conceal the affair, although immoral, is not a crime. When those gifts become potential evidence in a judicial proceeding, the same act becomes a crime. One who has committed these kinds of crimes that corrupt the judicial system simply is not fit to serve as the nation's chief law enforcement officer.

Apart from that, the notion that high crimes and misdemeanors encompass only public misconduct will not bear scrutiny. Numerous "private" crimes would obviously require the removal of a President. For example, if he killed his wife in a domestic dispute or molested a child, no one would seriously argue that he could not be removed. All of these acts violate the President's unique responsibility to take care that the laws be faithfully executed.

3. President Clinton Cites Precedents That Do Not Apply Rather Than Relying on the Senate's Own Precedents Clearly Establishing Perjury as a Removable Offense

a. President Clinton Continues to Misrepresent The Fraudulent Tax Return Allegation Against President Nixon.

In his trial memorandum, President Clinton argues that the failure in 1974 of the House Judiciary Committee to adopt an article of impeachment against President Nixon for tax fraud supports the claim that current charges against President Clinton do not rise to the level of impeachable and removable offenses. President's Trial Memorandum at 21. The President's lawyers acknowledge the charge in the article against President Nixon of "knowingly and fraudulently failed to report certain income and claimed deductions [for 1969-72] on his Federal income tax returns which were not authorized by law." *Id.* The President's lawyers go on to

state that “[t]he President had signed his returns for those years under penalty of perjury,” *Id.*, trying to distinguish away the Claiborne impeachment and removal precedent from 1986, and by extension all the judicial impeachments from the 1980s which clearly establish perjury as an impeachable and removable offense.

President Clinton’s argument that a President was not and should not be impeached for tax fraud because it does not involve official conduct or abuse of presidential powers simply is unfounded based on the 1974 impeachment proceedings against President Nixon. Moreover, the fact that the President and his lawyers make this argument in defense of the President is telling. He effectively claims that a large scale tax cheat could be a viable chief executive.

It is undisputed that the Judiciary Committee rejected the proposed tax fraud article against President Nixon by a vote of 26 to 12. A slim minority of Committee members stated the view that tax fraud would not be an impeachable offense. That minority view is illustrated by the comments of Rep. Waldie that in the tax fraud article there was “not an abuse of power sufficient to warrant impeachment” *Debate on Article of Impeachment 1974: Hearings of the Comm. on the Judiciary Pursuant H. Res. 803, 93rd Cong., 2nd Sess., at 548 (1974)* (Statement of Rep. Waldie). Similar views were expressed by Rep. Hogan and Rep. Mayne. Rep. Railsback took the position that there was “a serious question,” *id.* at 524 (Statement of Rep. Railsback), whether misconduct of the President in connection with his taxes would be impeachable.

Other members who opposed the tax fraud article based their opposition on somewhat different grounds. Rep. Thornton based his opposition to the tax fraud article on the “view that these charges may be reached in due course in the regular process of law.” *Id.* at 549 (Statement of Rep. Thornton). Rep. Butler stated his view that the tax fraud article should be rejected on

prudential grounds: “Sound judgment would indicate that we not add this article to the trial burden we already have.” *Id.* at 550 (Statement of Rep. Butler).

The record is clear, however, that the overwhelming majority of those who expressed a view in the debate in opposition to the tax fraud article based their opposition on the insufficiency of the evidence, and not on the view that tax fraud, if proven, would not be an impeachable offense.

The comments of then-Rep. Wayne Owens in the debate in 1974 directly contradict the view that Mr. Owens has expressed in recent testimony before the House Judiciary Committee. Although Mr. Owens in 1974 expressed his “belief” that President Nixon was guilty of misconduct in connection with his taxes, he clearly stated his conclusion that “on the evidence available” Mr. Nixon’s offenses were not impeachable. *Id.* at 549 (Statement of Rep. Owens). Mr. Owens spoke of the need for “hard evidence” and discussed his unavailing efforts to obtain additional evidence that would tie “the President to the fraudulent deed” or that would otherwise “close the inferential gap that has to be closed in order to charge the President.” *Id.* He concluded his comments in the 1974 debate by urging the members of the Committee “to reject this article ...based on that lack of evidence.” *Id.*

In addition to Mr. Owens, eleven members of the Committee stated the view that there was not sufficient evidence of tax fraud to support the article against President Nixon. Wiggins: “fraud . . . is wholly unsupported in the evidence.” *Id.* at 524 (Statement of Rep. Wiggins). McClory: “no substantial evidence of any tax fraud.” *Id.* at 531 (Statement of Rep. McClory). Sandman: “There was absolutely no intent to defraud here.” *Id.* at 532 (Statement of Rep. Sandman). Lott: “mere mistakes or negligence by the President in filing his tax returns should

clearly not be grounds for impeachment.” *Id.* at 533 (Statement of Rep. Lott). Maraziti: discussing absence of evidence of fraud. *Id.* at 534 (Statement of Rep. Maraziti). Dennis: “no fraud has been found.” *Id.* at 538 (Statement of Rep. Dennis). Cohen: questioning whether “in fact there was criminal fraud involved.” *Id.* at 548 (Statement of Rep. Cohen). Hungate: “I think there is a case here but in my judgment I am having trouble deciding if it has as yet been made.” *Id.* at 553 (Statement of Rep. Hungate). Latta: only “bad judgment and gross negligence.” *Id.* at 554 (Statement of Rep. Latta). Fish: “There is not to be found before us evidence that the President acted wilfully to evade his taxes.” *Id.* at 556 (Statement of Rep. Fish). Moorehead: “there is no showing that President Nixon in any way engaged in any fraud.” *Id.* at 557 (Statement of Rep. Moorehead).

The group of those who found the evidence insufficient included moderate Democrats like Rep. Hungate and Rep. Owens, as well as Republicans like Rep. Fish, Rep. Cohen, and Rep. McClory, all of whom supported the impeachment of President Nixon.

In light of all these facts, it is not credible to assert that the House Judiciary Committee in 1974 determined that tax fraud by the President would not be an impeachable offense. The failure of the Committee to adopt the tax fraud article against President Nixon simply does not support the claim of President Clinton’s lawyers that the offenses charged against him do not rise to the level of impeachable offenses.

In the Committee debate in 1974 a compelling case was made that tax fraud by a President — if proven by sufficient evidence — would be an impeachable offense. Rep. Brooks, who later served as chairman of the Committee, said:

No man in America can be above the law. It is our duty to establish now that

evidence of specific statutory crimes and constitutional violations by the President of the United States will subject all Presidents now and in the future to impeachment .

* * *

No President is exempt under our U.S. Constitution and the laws of the United States from accountability for personal misdeeds any more than he is for official misdeeds. And I think that we on this Committee in our effort to fairly evaluate the President's activities must show the American people that all men are treated equally under the law.

Debate on Articles of Impeachment, 1974: Hearings of the Comm. on the Judiciary Pursuant to H. Res. 803, 93rd Cong., 2nd Sess., at 525, 554.

Professor Charles Black stated it succinctly: "A large-scale tax cheat is not a viable chief magistrate." Charles Black, *Impeachment: A Handbook*, (Yale University Press, 1974) at 42. What is true of tax fraud is also true of a persistent pattern of perjury by the President. An incorrigible perjurer is not a viable chief magistrate.

b. President Clinton Continues to Misrepresent The Allegations Against Alexander Hamilton.

President Clinton continues to try to persuade the American public that the House of Representatives has impeached him for having an extramarital affair. See *Answer of President William Jefferson Clinton to the Articles of Impeachment* at 1 ("The charges in the two Articles of Impeachment do not permit the conviction and removal from office of a duly elected President. *The President has acknowledged conduct with Ms. Lewinsky that was improper.*") (emphasis added). In doing so, the President's lawyers refer to an incident involving then Secretary of the Treasury Alexander Hamilton being blackmailed by the husband of a woman named Maria Reynolds with whom he was having an adulterous affair. However, the President's

lawyers omit the relevant distinguishing facts even as they cast aspersions upon Alexander Hamilton: none of Hamilton's "efforts" to cover up his affair involved the violation of any laws, let alone felonies. Indeed, the fact of the matter is that Hamilton was the victim of the crime of extortion.

Never did Hamilton raise his right hand to take a sacred oath and then willfully betray that oath and the rule of law to commit perjury. Never did Alexander Hamilton obstruct justice by tampering with witnesses, urging potential witnesses to sign false affidavits, or attempt to conceal evidence from a Federal criminal grand jury.

Again, the significance of the distinctions are glaringly obvious: it is apparent from the Hamilton case that the Framers did not regard private sexual misconduct as an impeachable offense. It is also apparent that efforts to cover up such private behavior outside of a legal setting, including even paying hush money to induce someone to destroy documents, did not meet the standard. Neither Hamilton's high position, nor the fact that his payments to a securities swindler created an enormous appearance problem, were enough to implicate the standard. These wrongs were real, and they were not insubstantial, but to the Framers they were essentially private and therefore not impeachable. David Frum, "Smearing Alexander Hamilton," *The Weekly Standard* (Oct. 19, 1998) at 14.

But the Alexander Hamilton incident President Clinton cites actually clarifies the precise point at which personal misconduct becomes a public offense. Hamilton could keep his secret only by a betrayal of public responsibilities. Hamilton came to that point and, at immense personal cost, refused to cross the line. President Clinton came to that point and, fully understanding what he was doing, knowingly charged across the line. President Clinton's public

acts of perjury and obstruction of justice transformed a personal misconduct into a public offense.

4. The Views of the Prominent Historians and Legal Scholars the President Cites Do Not Stand Up to Careful Scrutiny.

It speaks volumes that the most distinguished of the 400 historians referred to in President Clinton's trial brief is Arthur Schlesinger, Jr. Professor Schlesinger had a different view of impeachment 25 years ago. President Clinton himself asserts that "the allegations are so far removed from official wrongdoing that their assertion here threatens to weaken significantly the Presidency itself." President's Trial Memorandum at 24. However, Schlesinger has written that:

The genius of impeachment lay in the fact that it could punish the man without the punishing the office. For, in the Presidency as elsewhere, power was ambiguous: the power to do good meant also the power to do harm, the power to serve the republic also the power to demean and defile it.

Arthur Schlesinger, Jr., *The Imperial Presidency*, (Easton Press edit. 1973) (hereinafter "Schlesinger") at 415.

The statement of the 400 historians cited with approval in the President's trial memorandum makes the following statement: "[t]he Framers explicitly reserved that step for high crimes and misdemeanors in the exercise of executive power." Statement of Historians in Defense of the Constitution, *The New York Times* (Oct. 30, 1998) at A15. The 400 historians then believe that commission of a murder or rape by the President of the United States in his personal capacity is not subject to the impeachment power of Article II, Section 4.

President Clinton in his trial memorandum asserts that this case does not fit the paradigmatic case for impeachment. President's Trial Memorandum at 24. However, none of

his predecessors ever faced overwhelming evidence of repeatedly lying under oath before a federal court and grand jury and otherwise seeking to obstruct justice to benefit himself -- directly contradicting his oath to "take care that the laws are faithfully executed." But as former Attorney General Griffin Bell, who served under President Carter, said before the House Judiciary Committee recently, "[a] President cannot faithfully execute the laws if he himself is breaking them." *Background and History of Impeachment: Hearings Before the Subcomm. on the Constitution of the House Comm. on the Judiciary*, 105th Cong., 2d Sess. at 203 (Comm. Print 1998) (Testimony of Judge Griffin B. Bell).

President Clinton goes on to state that to make the offenses alleged against him impeachable and removable conduct "would forever lower the bar in a way inimical to the Presidency and to our government of separated powers. These articles allege (1) sexual misbehavior, (2) statements about sexual misbehavior and (3) attempts to conceal the fact of sexual misbehavior." President's Trial Memorandum at 26. While President Clinton and his able counsel would like to define the case this way, what is at issue in the articles of impeachment before the Senate is clear: perjury and obstruction of justice committed by the President of the United States in order to thwart a duly instituted civil rights sexual harassment lawsuit against him as well as a subsequent grand jury investigation. While the President may think such allegations would forever lower the bar in terms of the conduct we expect from our public officials, we must square his opinion and that of his lawyers with the fact that his Justice Department puts people in prison for similar conduct. While the President's brief again quotes Arthur Schlesinger, Jr. for the proposition that we must not "lower the bar," President's Trial Memorandum at 26, Schlesinger held a different view during the impeachment of President

Nixon:

If the Nixon White House escaped the legal consequences of its illegal behavior, why would future Presidents and their associates not suppose themselves entitled to do what the Nixon White House had done? Only condign punishment would restore popular faith in the Presidency and deter future Presidents from illegal conduct.

Schlesinger at 418.

5. The President and Federal Judges are Impeached, Convicted, and Removed from Office Under the Same Standard.

President Clinton's argument that Presidents are held to a lower standard of behavior than federal judges completely misreads the Constitution and the Senate's precedents. *See generally* House Trial Brief at 101-06. The Constitution provides one standard for the impeachment, conviction, and removal from office of "[t]he President, the Vice President, and all civil officers of the United States." U.S.Const. art II, § 4. It is the commission of "Treason, Bribery, or other high Crimes and Misdemeanors." *Id.* The Senate has already determined that perjury is a high crime and misdemeanor in the cases of Judge Nixon, Judge Hastings, and Judge Claiborne.

President Clinton argues that the standard differs because judges have life tenure whereas Presidents are accountable to the voters at elections. That argument fails on several grounds. The differing tenures are set forth in the Constitution, and there is simply no textual support for the idea that they affect the impeachment standard at all. If electoral accountability were a sufficient means of remedying presidential misconduct, the framers would not have explicitly included the President in the impeachment clause. Finally, even if this argument were otherwise valid, it does not apply to President Clinton because he will never face the voters again. U.S. Const. amend. XXII. Indeed, all of the conduct charged in the Articles occurred after the 1996 election.

Then President Clinton rejects the Senate's own precedents showing that perjury is a high crime and misdemeanor in the three judicial impeachments of the 1980s arguing that all of the lying involved there concerned the judges' official duties. That is true with respect to Judge Hastings, but completely false with respect to Judge Claiborne and Judge Nixon. Judge Claiborne was impeached and convicted for lying on his income tax returns, an entirely personal matter. President Clinton tries to explain this away by saying: "Once convicted, [Judge Claiborne] simply could not perform his official functions because his personal probity had been impaired such that he could not longer be an arbiter of others' oaths." President's Trial Memorandum at 29. The same is true of President Clinton. He ultimately directs the Department of Justice which must decide whether people are prosecuted for lying. If he has committed perjury and obstructed justice, how can he be the arbiter of other's oaths? As Professor Jonathan Turley put it:

As Chief Executive the President stands as the ultimate authority over the Justice Department and the Administration's enforcement policies. It is unclear how prosecutors can legitimately threaten, let alone prosecute, citizens who have committed perjury or obstruction of justice under circumstances nearly identical to the President's. Such inherent conflict will be even greater in the military cases and the President's role as Commander-in-Chief.

Background and History of Impeachment: Hearings Before the Subcomm. on the Constitution of the House Comm. on the Judiciary, 105th Cong., 2d Sess. at 274 (Comm. Print 1998) (Testimony of Professor Jonathan Turley).

In the same vein, President Clinton claims that Judge Nixon "employ[ed] the power and prestige of his office to obtain advantage for a party." President's Trial Brief at 29. In fact, Judge Nixon intervened in a state criminal case in which he had no official role. His ability to

persuade the prosecutor to drop the case rested on his friendship with the state prosecutor -- not his official position. President Clinton argues that it was Judge Nixon's intervention in a judicial proceeding that ties it to his official position. The same is true of President Clinton. He intervened in two judicial proceedings and his actions had the same effect as Judge Nixon's -- to defeat a just result.

As the person who ultimately directs the Justice Department -- the federal government's prosecutorial authority -- the President must follow his constitutional duty to take care that the laws are faithfully executed. U.S. Const. art. II, § 3. His special constitutional duty is at least as high, if not higher, than the judge's. Indeed, President Clinton acknowledged as much early in his Administration when controversy arose about the nomination of Zoe Baird and the potential nomination of Judge Kimba Wood to be Attorney General. Questions were raised about whether they had properly complied with laws relating to their hiring of household help. At that time, President Clinton said the Attorney General "should be held to a higher standard than other Cabinet members on matters of this kind [i.e. strictly complying with the law]." Remarks of President Clinton with Reporters Prior to a Meeting with Economic Advisers, February 8, 1993, 29 Weekly Compilation of Presidential Documents 160. If the Attorney General is held to a higher standard of compliance with the law, then her superior, President Clinton, must be also.

B. The Individual Consciences of Senators Determines the Burden of Proof in Impeachment Trials.

The Constitution does not discuss the standard of proof for impeachment trials. It simply states that "the Senate shall have the Power to try all Impeachments." U.S. Const., Art I, Sec. 3, clause 5. Because the Constitution is silent on the matter, it is appropriate to look at the past

practice of the Senate. Historically, the Senate has never set a standard of proof for impeachment trials. "In the final analysis the question is one which historically has been answered by individual Senators guided by their own consciences." Congressional Research Service Report for Congress, Standard of Proof in Senate Impeachment Proceedings, Thomas B. Ripy, Legislative Attorney, American Law Division (January 7, 1999).

President Clinton argues that the impeachment trial is similar to a criminal trial and that the appropriate standard should therefore be "beyond a reasonable doubt." That argument is not new: it has been made in the past, and the Senate has rejected it, as, indeed, President Clinton acknowledges. He asserts, however, that the impeachment trial of a President should proceed under special procedures that do not apply to the trial of other civil officers. His arguments are unpersuasive.

1. The Senate has Never Adopted the Criminal Standard of "Beyond a Reasonable Doubt" or Any Other Standard of Proof for Impeachment Trials.

The Senate has never adopted the standard of "beyond a reasonable doubt" in any impeachment trial in U.S. history. In fact, the Senate has chosen not to impose a standard at all, preferring to leave to the conscience of each senator the decision of how best to judge the facts presented.

In the impeachment trial of Judge Harry Claiborne, counsel for the respondent moved to designate "beyond a reasonable doubt" as the standard of proof for conviction. Gray & Reams, The Congressional Impeachment Process and the Judiciary: Documents and Materials on the Removal of Federal District Judge Harry E. Claiborne, Volume 5, Document 41, X (1987). The Senate overwhelmingly rejected the motion by a vote of 17-75. In the floor debate on the

motion, House Manager Kastenmeier emphasized that the Senate has historically allowed each member to exercise his personal judgment in these cases. 132 Cong. Rec. S15489 - S15490 (daily ed. October 7, 1986).

The question of the appropriate standard of proof was also raised in the trial of Judge Alcee Hastings. In the Senate Impeachment Trial Committee, Senator Rudman said in response to a question about the historical practice regarding the standard of proof that there has been no specific standard, "you are not going to find it. It is what is in the mind of every Senator. . . . I think it is what everybody decides for themselves." *Report of the Senate Impeachment Trial Committee on the Articles Against Judge Alcee Hastings: Hearings before the Senate Impeachment Trial Committee* (Part 1) 101st Cong., 1st Sess. 73-75, (discussion involving Senator Lieberman and Senator Rudman).

2. The Criminal Standard of Proof is Inappropriate for Impeachment Trials.

President Clinton argues that an impeachment trial is akin to a criminal trial and that, therefore, the criminal standard should apply. That assertion is, of course, at direct odds with his apparent opposition to the presentation of evidence through witnesses, another normal criminal trial procedure. The Senate Rules Committee rejected this analogy in 1974, stating, "an impeachment trial is not a criminal trial," and advocating a clear and convincing evidence standard. Executive Session Hearings, U.S. Senate Committee on Rules and Administration, "Senate Rules and Precedents Applicable to Impeachment Trials" 93rd Cong., 2d Sess. (August 5-6, 1974). Indeed, it is undisputed that impeachable offenses need not be criminal offenses. *See Submission by Counsel for President Clinton to the Committee on the Judiciary of the United States House of Representatives*, 105th Cong., 2d Sess. at 14 (Comm. Print Ser. No. 16 1998)

("Impeachable acts need not be criminal acts.")

Moreover, the result of conviction in an impeachment trial is removal from office, not punishment. As the House argued in the Claiborne trial, the reasonable doubt standard was designed to protect criminal defendants who risked "forfeitures of life, liberty and property" (quoting *Brinegar v. United States*, 338 U.S. 160, 174 (1949)). This standard is inappropriate here because the Constitution limits the consequences of a Senate impeachment trial to removal from office and disqualification from holding office in the future, explicitly preserving the option for a subsequent criminal trial in the courts. U.S. Const. art. II, § 3, cl. 6.

In addition, as the House argued in the Claiborne trial, the criminal standard is inappropriate because impeachment is, by its nature, a proceeding where the public interest weighs more heavily than the interest of the individual defendant. Gray & Reams, *The Congressional Impeachment Process and the Judiciary: Documents and Materials on the Removal of Federal District Judge Harry E. Claiborne*, Volume 5, Document 41, X (1987). During the course of the floor debate on this motion in the Claiborne trial, Representative Kastenmeier argued for the House that the use of the criminal standard was inappropriate where the public interest in removing corrupt officials was a significant factor. 132 Cong. Rec. S15489 - S15490 (daily ed. October 7, 1986).

3. A President Who is Impeached Should Not Receive Special Procedural Benefits That Do Not Apply in the Impeachment Trials of Other Civil Officers.

President Clinton argues that he should be exempted from the weight of historical practice and precedent and be given a special rule on the standard of proof. This argument is based on fallacious assertions, the first of which is that different constitutional standards apply to

the impeachment of judges and presidents. See above at 14-16 and House Trial Memorandum at 101-06.

President Clinton also employs inflammatory rhetoric to suggest that a presidential impeachment trial ought to be treated differently, explaining that the criminal standard is needed because “the Presidency itself is at stake” and because conviction would “overturn the results of an election.” President’s Trial Memorandum at 32-33. The presidency is, of course, not at stake, though the tenure of its current office holder may be. The 25th Amendment to the Constitution ensures that impeachment and removal of a President would not overturn an election because it is the elected Vice President who would replace the President not the losing presidential candidate.

Finally, President Clinton argues that the evidence should be tested by the most stringent standard because “there is no suggestion of corruption or misuse of office – or any other conduct that places our system of government at risk in the two remaining years of the President’s term.” President’s Trial Memorandum at 33. While the President might be expected to argue that he did not act corruptly, he cannot credibly assert that “there is no suggestion of corruption,” because “corrupt” conduct is precisely what he is charged with in the articles of impeachment. Though not persuasive as an argument, this statement is significant in what it *concedes* – that corruption is among the “conduct that places our system of government at risk.” President’s Trial Memorandum at 33. Having acknowledged this, President Clinton cannot be heard to complain that the House has failed to charge him with conduct which rises to the level of an impeachable offense.

IV. The Structure of the Articles is Proper and Sufficient.**A. The Articles are Not Unconstitutionally Vague.**

President Clinton's trial memorandum argues that the two articles of impeachment are unfairly complex. To the contrary, the articles present the misdeeds of President Clinton and their consequences in as transparent and understandable a manner as possible.

The first article of impeachment charges that President Clinton violated his enumerated constitutional responsibilities by willfully corrupting and manipulating the judicial process. He did this by providing perjurious, false and misleading testimony to a grand jury in regard to one or more of four matters. The deleterious consequences his actions had for the people of the United States are then described. The second article charges that President Clinton violated his enumerated constitutional responsibilities by a course of conduct that prevented, obstructed, and impeded the administration of justice. One or more of seven listed acts constitute the particulars of President Clinton's course of conduct. As in the first article, the deleterious consequences his actions had for the people of the United States are then described.

To do as President Clinton requests would require separating out into a unique article of impeachment each possible combination of a) a particular violation of his duties, b) a particular wrongful act, and c) a particular consequence of his actions. This would require 48 different articles in the case of the first article and 84 in the case of the second. Such a multiplicity of articles is not required and would assist no one. Of course, if the president had violated fewer presidential duties, committed fewer misdeeds, and been responsible for fewer harmful consequences to the American people, the articles could have been drafted more simply.

The trial memorandum then makes the contention that the two articles of impeachment

are impermissibly vague and lacking in specificity in that they do not meet the standards of a criminal indictment. This contention clearly misses the mark. Impeachment is a political and not a criminal proceeding, designed, as recognized by Justice Joseph Story, the Constitution's greatest nineteenth century interpreter, "not . . . to punish an offender" by threatening deprivation of his life or liberty, but to "secure the state" by "divest[ing] him of his political capacity". J. Story, *Commentaries on the Constitution* (R. Rotunda & J. Nowak eds., 1987) § 803. Justice Story thus found the analogy to an indictment to be invalid:

The articles . . . need not, and indeed do not, pursue the strict form and accuracy of an indictment. They are sometimes quite general in the form of the allegations; but always contain, or ought to contain, so much certainty, as to enable the party to put himself upon the proper defense, and also, in case of an acquittal, to avail himself of it, as a bar to another impeachment.

Id. at § 806.

In explaining the impeachment process to the citizens of New York in Federalist No. 65, Alexander Hamilton stated in more general terms that impeachment "can never be tied down by such strict rules, either in the delineation of the offense by the prosecutors or in the construction of it by the judges, as in common cases serve to limit the discretion of courts in favor of personal security." *The Federalist No. 65*, at 398 (Clinton Rossiter ed., 1961).

Can the president legitimately argue that he is unable to put on a proper defense?

President Clinton has committed a great number of impeachable misdeeds. The House Judiciary Committee's committee report requires 20 pages just to list the most glaring instances of the president's perjurious, false, and misleading testimony before a federal grand jury and it requires 13 pages just to list the most glaring incidents in the president's course of conduct designed to prevent, obstruct, and impede the administration of justice. The House believes that President

Clinton's attorneys have reviewed the committee report. They know exactly what he is being charged with, as is acknowledged in the president's trial memorandum. The memorandum states in its introduction that "[t]ake away the elaborate trappings of the Articles and the high-flying rhetoric that accompanied them, and we see clearly that the House of Representatives asks the Senate to remove the President from office because he" President's Trial Memorandum at 2. In addition, in the House proceedings, the President filed three documents: a Preliminary Memorandum, an Initial Response, and a Submission by Counsel. The first two documents were printed together and ran to 57 pages. *Preliminary Memorandum of the President of the United States Concerning Referral of the Office of the Independent Counsel and Initial Response of the President of the United States to Referral of the Office of the Independent Counsel*, 105th Cong., 2d Sess., H. Doc. No. 105-317 (1998). The third was printed and ran to 404 pages. *Submission by Counsel for President Clinton to the Committee on the Judiciary of the United States House of Representatives*, 105th Cong., 2d Sess. (Comm. Print Ser. No. 16 1998). He was also given 30 hours to present his case before the House Committee on the Judiciary, during which he called numerous witnesses. The Committee repeatedly asked President Clinton to provide it with any exculpatory evidence, an offer which he never accepted. Now President Clinton's Trial Memorandum to the Senate runs to 130 pages. Clearly, President Clinton has not suffered from any lack of specificity in the articles of impeachment.

If he had, he would have availed himself of the opportunity to file a motion for a bill of particulars. He had that opportunity on January 11, 1999, and he waived it. He should not now be heard to claim that he does not know what the charges are.

Unlike the judicial impeachments of the 1980s, President Clinton has not committed a

handful of specific misdeeds that can easily be listed in separate articles of impeachment. In order to encompass the whole melange of misdeeds that caused the House of Representatives to impeach President Clinton, the Judiciary Committee looked to the only analogous case -- that of President Nixon. In 1974, the Committee was also faced with drafting articles of impeachment of a reasonable length against a president who had committed a long series of improper acts designed to achieve an illicit end.

The first article of impeachment against President Nixon charged that in order to cover up an unlawful entry into the headquarters of the Democratic National Committee and to delay, impede, and obstruct the consequent investigation (and for certain other purposes), he engaged in a series of acts such as "making or causing to be made false or misleading statements to lawfully authorized investigative officers", "endeavoring to misuse the Central Intelligence Agency", and "endeavoring to cause prospective defendants and individuals duly tried and convicted, to expect favored treatment and consideration in return for their silence or false testimony." *Impeachment of Richard M. Nixon, President of the United States*, H.Rept. No. 93-1305, 93rd Cong., 2^d Sess. 2 (1974). The article did not list each false or misleading statement, did not list each misuse of the CIA, and did not list each prospective defendant and what they were promised.

In like fashion, the articles of impeachment against President Clinton charge him with providing perjurious, false, and misleading testimony concerning four subjects, such as his relationship with a subordinate government employee, and engaging in a course of conduct designed to prevent, obstruct, and impede the administration of justice, such course including four general acts such as an effort to secure job assistance for that employee. An argument can be made that the articles of impeachment against President Clinton were drafted with more

specificity than those against President Nixon. Unless President Clinton is arguing that the Senate should have dismissed the first article of impeachment against President Nixon (had the president not resigned), he has little ground to complain about the articles against himself. In short, President Clinton knows exactly what the charges are, and the Senate should now require him to account for his behavior.

B. The Articles Do Not Improperly Charge Multiple Offenses in One Article.

President Clinton argues unpersuasively that the articles of impeachment are “unconstitutionally flawed” in two respects. First, he argues that “by charging multiple wrongs in one article, the House of Representatives has made it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of two-thirds of the members.” President’s Trial Memorandum at 101. Second, he argues that the articles do not provide him “the most basic notice of the charges against him required by due process and fundamental fairness.” *Id.* Both arguments are factually deficient, ignore Senate precedent and procedure, and are constitutionally flawed.

The articles of impeachment allege that the President made “one or more” “perjurious, false and misleading statements to the grand jury” and committed “one or more” acts in which he obstructed justice. H. Res. 611, 105th Cong. 2nd Sess. (1998). The articles of impeachment are modeled after those adopted by the House Committee on the Judiciary against President Nixon and were drafted with the rules of the Senate in mind. Senate Rules specifically contemplate that the House may draft articles of impeachment in this manner and prior rulings of the Senate have held that such drafting is not deficient and will not sustain a motion to dismiss.

In 1986, the United States Senate amended the *Rules of Procedure and Practice in the*

Senate When Sitting on Impeachment Trials. S. Res. 479, 99th Cong., 2nd Sess. (1986). As part of the reform, Rule XXIII, which deals generally with voting the final question, was amended to clarify that articles of impeachment are not divisible. Rule XXIII provides in relevant part that:

An article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial. Once voting has commenced on an article of impeachment, voting shall be continued until voting has been completed on all articles of impeachment unless the Senate adjourns for period not to exceed one day or adjourns sine die.

The Senate Committee on Rules and Administration, after thoroughly reviewing the impeachment rules, prior articles of impeachments, and prior Senate trials, decided that articles of impeachment should not be divisible. In drafting the amendment to Rule XXIII providing that articles of impeachment not be divided, the Senate was aware that the House may combine multiple counts of impeachable conduct in one article of impeachment. The Committee report explains the Senate's position:

The portion of the amendment effectively enjoining the division of an article into separate specifications is proposed to permit the most judicious and efficacious handling of the final question both as a general manner and, in particular, with respect to the form of the articles that proposed the impeachment of President Richard M. Nixon. The latter did not follow the more familiar pattern of embodying an impeachable offense in an individual article but, in respect to the first and second of those articles, set out broadly based charges alleging constitutional improprieties followed by a recital of transactions illustrative or supportive of such charges. The wording of Articles I and II expressly provided that a conviction could be had thereunder if supported by "one or more of the" enumerated specifications. The general view of the Committee at that time was expressed by Senators Byrd and Allen, both of whom felt that division of the articles in question into potentially 14 separately voted specifications might "be time consuming and confusing, and a matter which could create great chaos and division, bitterness, and ill will * * *." Accordingly, it was agreed to write into the proposed rules language which would allow each Senator to vote to convict under either the first or second articles if he were convinced that the person impeached was "guilty" of one or more of the enumerated specifications.

Amending the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, Report of the Comm. on Rules and Administration, S. Rept. 99-401, 99th Cong., 2nd Sess., at 8 (1986) (emphasis added). Because the Senate was aware that multiple specifications of impeachable conduct may be contained in an article of impeachment, the Senate's rules implicitly countenance such drafting.

The issue regarding whether articles of impeachment are divisible is not new to the Senate. In fact, the Senate's Committee on Rules and Administration reviewed the Senate's impeachment procedures in 1974 to prepare for a possible trial of President Richard Nixon. The Committee passed the exact same language as the Committee did in 1986 prohibiting the division of an article of impeachment. Because President Nixon resigned, the full Senate never considered the amendments.

Senator Jacob K. Javits of New York submitted a statement to the Committee in 1974 addressing the divisibility issue and advised that Rule XXIII be amended to prohibit the division of an article of impeachment. His comments, as follows, are instructive:

Rule XXIII provides for the yeas and nays to be taken on each article separately but does not set any order for a vote when there are several articles. In the [President] Johnson trial, this was done by order of the Senate and several votes were taken on the order. This procedure, setting a vote for final consideration, should be stated in the rules. Also the rule is silent about the division of any article. In the Johnson trial a division was requested and the Chief Justice attempted to devise one, but could not, and the article as a whole was submitted for a vote to the Senate. I believe articles should not be divided because this raises a further question of whether a two-thirds vote is required on each part of an article and whether the House action on the construction of a particular article can be changed without further action by the House. Thus the rule should provide for no division of an article by the Senate.

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before the Comm. on Standing Rules and Administration, 93rd Cong., 2nd Sess. at 116 (August 5th and 6th, 1974) (emphasis added).

In addition to implicitly recognizing that articles of impeachment may contain multiple specifications of impeachable offenses, the Senate has convicted a number of judges on such “omnibus” articles, including Judges Archbald, Ritter, and Claiborne. In the case of Judge Nixon, the Senate acquitted on the article, but refused to dismiss it.

The most recent example, that of Judge Nixon in 1989, is instructive. Judge Walter L. Nixon filed a motion to dismiss on the grounds that Article III was duplicative, among other things. Senator Fowler, the chairman of the committee appointed to take evidence in the impeachment trial of Judge Nixon explained the reasons for denying Nixon’s motion to refer the motion to dismiss to the full Senate:

To the extent that the motion rests on the House’s inclusion of fourteen distinct allegations of false statements in one article, we believe that Article III states an intelligible and adequately discrete charge of an impeachable offense by alleging that Judge Nixon concealed information concerning several conversations in which he had engaged by making “one or more” false statements to a grand jury. The House has substantial discretion in determining how to aggregate related alleged acts of misconduct in framing Articles of Impeachment and has historically frequently chosen to aggregate multiple factual allegations in a single impeachment article. The House’s itemization of the fourteen particular statements whose knowing falsity it is alleging serves to give Judge Nixon fair notice of the contours of the charge against him without reducing the intelligibility of the article’s essential accusation that Judge Nixon knowingly concealed material information from the government’s law enforcement agents. Because the Committee believes that evidentiary proceedings may fairly be conducted on Article III as it is presently drafted, Judge Nixon’s motion to refer his motion to dismiss Article III to the Senate at this time is denied.

135 Cong. Rec.19635-36 (September 6, 1989).

The full Senate eventually rejected Judge Nixon’s motion to dismiss by a vote of 34 to

63. Mr. Manager Cardin persuasively summed up the argument against the motion to dismiss as follows:

Judge Nixon argues, in his brief, that you must find all 14 statements to be false to vote guilty on article III. But that is untrue. Read the article closely. The question posed by article III is, did Judge Nixon conceal information? Did he conceal information, first by one or more false or misleading statements in his interview, and then by one or more false and misleading statements in his grand jury testimony?

You need not find all 14 statements to be false. The House is unanimously convinced that all 14 are complete and utter lies. We hope you will agree. But after considering the evidence, perhaps you will conclude that only 12 of the statements are false. It really does not matter. Just one intentionally false and misleading statement in the interview, or one in the grand jury, should be enough. Because if you conclude that Judge Nixon concealed information, whether by 1 false statement or 14, he should be removed from the bench. You should vote guilty on article III.

And you need not necessarily agree on which statements are false, if you reach the conclusion that he concealed information. If two-thirds of the Senators present believe Judge Nixon lied, regardless of how each individual Senator reached that conclusion, he will properly be removed from office.

* * *

This is by no means unfair to Judge Nixon, for even if you might differ on which particular statements are lies, the bottom line is that two-thirds of you will have agreed that he concealed information, rendering him unfit for office. That is what the Constitution requires.

Id. at 26751.

Given the clear Senate precedent permitting articles of impeachment containing multiple specifications of impeachable offenses, the President's attack on the construction of the articles is an attack on Senate rules and precedent. The President's concerns, if assumed to be valid, could be addressed simply by permitting a division of the question. Under the standing rules of the Senate, any Senator may have the same divided if "the question in debate contains several

propositions.” Senate Rule XV. A question is divisible if it contains two or more separate and distinct propositions. The Senate, however, has made an affirmative decision to dispense with the regular order which governs bills, resolutions, and amendments thereto, and instead adopted a different procedure not permitting the division of articles of impeachment. The Senate has not acted unconstitutionally in the past regarding prior impeachments, and is not on a course to do so in the trial of President Clinton.

The claim that President Clinton is not on notice regarding the charges is ludicrous. The Lewinsky matter is arguably the most reported and scrutinized story of 1998 and possibly of 1999. The facts of the case are contained in numerous documents, statements, reports, and filings. Specifically, President Clinton has had the following documents, among others, containing the facts and specifics of the case: 1) *Referral from Independent Counsel Kenneth W. Starr in Conformity with the Requirements of Title 28, United States Code, Section 595(c)*, H. Doc. 105-310, 105th Cong., 2nd Sess. (1998); 2) *Investigatory Powers of the Comm. on the Judiciary with Respect to its Impeachment Inquiry*, H. Rept. 105-795, 105th Cong., 2nd Sess. (October 7, 1998); 3) *Impeachment of William Jefferson Clinton, President of the United States*, 105th Cong., 2nd Sess., H.R. Rept. 105-830 (Dec. 16, 1998); and 4) *Trial Memorandum of the United States House of Representatives*. If all of these reports and the thousands of pages of documents are not enough, President Clinton will have the opportunity to review the presentation of the Managers on the Part of the House for up to twenty-four hours.

V. President Clinton Completely Misstates the Record as to the Discovery Procedures that Were Available to Him in the House of Representatives.

President Clinton’s trial memorandum claimed to the Senate that, should it decide “to

allow the House managers to expand the record in some way . . . the President would have an urgent need for the discovery of relevant evidence, because at no point in these proceedings has he been able to subpoena documents or summon or cross-examine witnesses." President's Trial Memorandum at 125 (emphasis added). The President also states that "the House of Representatives [did not] afford the President any discovery mechanisms to secure evidence that might be helpful in his defense." *Id.*

We will not address every discovery issue here since those issues will be resolved in the coming days; however, the Senate should know that these claims are absolutely false. In fact, the President's own brief refutes his claims. "The Committee allowed the President's lawyers two days in which to present a defense. The White House presented four panels of distinguished expert witnesses . . ." White House Counsel Charles F.C. Ruff presented argument to the Committee on behalf of the President . . ." *Id.* at 13.

The House Committee on the Judiciary repeatedly asked the President's attorneys to supply any exculpatory evidence to the Committee, both orally and in writing. They never did. When, at the last minute, the President's counsel requested witnesses, the Committee invited to testify every witness they requested. Aside from this, President Clinton nor his attorneys never asked to "subpoena documents" or "summon or cross-examine witnesses." If President Clinton's argument is that the Committee did not provide his staff a stack of blank subpoenas, that is correct. However, neither the House of Representatives, nor the Senate, has the ability to "turn over" its constitutionally based subpoena power to the executive branch.

President Clinton's attorneys never asked to do the things they now claim they never had the ability to do. In fact, when minority members of the Committee publicly asked that Judge

Starr be called as a witness, Judge Starr was called. In fact, President Clinton's attorney and minority counsel questioned Judge Starr for over two hours. Every Member of the Committee questioned him for at least five minutes each. Judge Starr was a witness, and he was cross-examined by David Kendall, President Clinton's private attorney. President Clinton's claims are just not accurate.

President Clinton's attorneys raise the issue of fairness. They are entitled to their own opinion about the House's proceedings, but they are not entitled to rewrite history. The truth is that the Committee's subpoena power could have been used to subpoena documents or witnesses on behalf of the President if they had so requested. They did not. All they requested, is that lawyers, law professors, and historians testify before the Committee. In short, President Clinton's statements about what happened in the House completely misstate what occurred.

VI. Conclusion

For the reasons stated herein and in the Trial Memorandum of the United States House of Representatives, the House respectfully submits that the articles properly state impeachable offenses, that the Senate should proceed to a full trial on the articles, and that after trial, the Senate should vote to convict President William Jefferson Clinton, remove him from office, and disqualify him from holding further office.

Respectfully submitted,

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DATED: January 14, 1999